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STATUTES, DOCUMENTS AND PAPERS

BEARING ON THE

DISCUSSION

RESPECTING THE

Northern and Western Boundaries

OF THE

PROVINCE OF ONTARIO.



TORONTO:

PRINTED BY HUNTER, ROSE & CO., 25 WELLINGTON ST. WEST.

1877.







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# STATUTES, DOCUMENTS AND PAPERS

BEARING ON THE

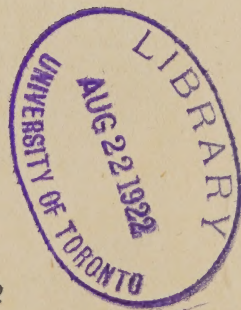
## DISCUSSION

RESPECTING THE

# Northern and Western Boundaries

OF THE

PROVINCE OF ONTARIO.



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TORONTO:

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STATUTES, AMENDMENTS AND PATRONS

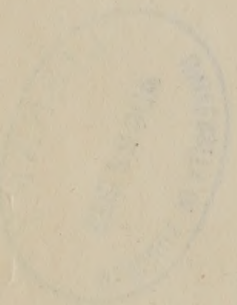


DEPARTMENT

OF THE

LEGISLATIVE COUNCIL

OF THE PROVINCE OF ONTARIO



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## ERRATA.

- Page 2.—Line three of heading, *for* XXI. *read* XXXI.
- “ 20.—*For* 1711 in headings, *read* 1713.
- “ 27.—Omit lines nine and ten.
- “ 23.—In third line from foot omit 1681.
- “ 52.—Substitute for description in first Commission of Sir Guy Carleton, (1775), that printed at page 290.
- “ 53.— “ “ second “ “ “ “ (1786), “ “ “ “ 291.
- “ 96.—In eighth line from foot, *for* north-eastern *read* north-western.
- “ 97.—In sixteenth line, *for* seventeen *read* seventy.
- “ 110.—Line four from foot, *for* ‘round about Canada the control of other people’ *read* ‘Canada round about them, having another people.’
- “ 120.—Line fourteen, *for* 1711 *read* 1713.
- “ 139.—Line thirteen from foot, *for* 1683 *read* 1783.
- “ 170.—Lines six and seven, and lines thirty and thirty-one; *for* the expressions here quoted, *read* ‘a line drawn due north from the junction of the rivers Ohio and Mississippi, within the latitude of 37° 10’ north, and 88° 50’ west longitude.’
- “ 187.—In heading of Memorial, omit words after “Shrewsbury.”
- “ 235.—In table of population, transpose the figures 55, 38, 66, from “Athabasca,” to “Athabasca River.” *For* 65, opposite “Upper Red River,” *read* 56. *For* 56, 52, 68, opposite “Lower Red River,” *read* 75, 40, 60. Omit queries after totals.
- “ 298.—In second line of italics, *for* 1763 *read* 1783.
- “ 302.—Line thirteen, *for* Upper Mississippi, *read* Missouri.
- “ “ —In line fourteen, *for* Mississippi, *read* Upper Mississippi.



## THE "QUEBEC ACT."

PASSED IN THE FOURTEENTH YEAR OF GEORGE III (1774).

### CHAPTER LXXXIII.

*An Act for making more effectual provision for the Government of the Province of Quebec in North America.*

WHEREAS His Majesty, by His Royal Proclamation, bearing date the Seventh day of October, in the third year of His reign, thought fit to declare the provisions which have been made in respect to certain countries, territories, and islands in America, Preamble. ceded to His Majesty by the definitive Treaty of Peace concluded at Paris on the Tenth day of February, one thousand seven hundred and sixty-three; and whereas by the arrangements made by the said Royal Proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries: May it therefore please Your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same,

The territories, islands and countries in North America, belonging to Great Britain. That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the South by a line from the Bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in forty-five degrees northern latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River St. Lawrence; from thence up the eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province, until the said western boundary strike the Ohio; but in case the said bank of the said lake shall not be found to be intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania, and thence, by a right line, to the said north-western angle of the said province; and thence along the western boundary of the said Province until it strike the River Ohio; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the Merchants Adventurers of England, trading to Hudson's Bay; and also all such territories, islands and countries, which have, since the Tenth day of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec as created and established by the said Royal Proclamation of the Seventh day of October, one thousand seven hundred and sixty-three.

Annexed to the Province of Quebec.

[Other sections omitted as not affecting the question.]



## THE "CONSTITUTIONAL ACT" (1791).

PASSED IN THE THIRTY-FIRST YEAR OF GEORGE III.

### CHAPTER XXI.

*An Act to repeal certain parts of an Act, passed in the fourteenth year of His Majesty's reign, entitled, an Act for making more effectual provision for the government of the Province of Quebec, in North America; and to make further provision for the Government of the said Province.*

WHEREAS an Act was passed in the fourteenth year of the reign of his present Majesty, entitled, "An Act for making more effectual provision for the government of the Province of Quebec, in North America:" and whereas the said Act is in many respects inapplicable to the present condition and circumstances of the said Province: and whereas it is expedient and necessary that further provision should now be made for the good government and prosperity thereof: may it therefore please your most excellent Majesty that it may be enacted: and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said Act as in any manner relates to the appointment of a Council for the affairs of the said Province of Quebec, or to the power given by the said Act to the said Council, or to the major part of them, to make ordinances for the peace, welfare, and good government of the said Province, with the consent of his Majesty's Governor, Lieutenant-Governor, or Commander-in-chief for the time being, shall be, and the same is hereby repealed.

II. And whereas his Majesty has been pleased to signify, by his message to both Houses of Parliament, his royal intention to divide his Province of Quebec into two separate Provinces, to be called the Province of Upper Canada, and the Province of Lower Canada; be it enacted by the authority aforesaid, That there shall be within each of the said Provinces respectively, a Legislative Council, and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said Provinces respectively, his Majesty, his heirs or successors, shall have power, during the continuance of this Act, by and with the advice and consent of the Legislative Council and Assembly of such Provinces respectively, to make laws for the peace, welfare, and good government thereof, such laws not being repugnant to this Act; and that all such laws, being passed by the Legislative Council and Assembly of either of the said Provinces respectively, and assented to by his Majesty, his heirs or successors, or assented to in his Majesty's name, by such person as his Majesty, his heirs or successors, shall from time to time appoint to be the Governor, or Lieutenant-Governor of such Province, or by such person as his Majesty, his heirs or successors, shall from time to time appoint to administer the government within the same, shall be, and the same are hereby declared to be, by virtue of and under the authority of this Act, valid and binding to all intents and purposes whatever, within the Province in which the same shall have been so passed.

[The other sections omitted as not affecting the question.]

### UNION ACT.

IMPERIAL ACT, 3-4, V. C. 35 (1840.)

*An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.*

Preamble.

WHEREAS it is necessary that provision be made for the good Government of the Provinces of Upper Canada and Lower Canada, in such manner as may secure the right and liberties and promote the interests of all classes of Her Majesty's subjects within the same: And whereas to this end it is expedient that the



said Provinces be re-united and form one Province for the purposes of Executive Government and legislation : Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall be lawful for Her Majesty, with the advice of Her Privy Council, to declare, or to authorize the Governor-General of the two Provinces of Upper and Lower Canada to declare, by Proclamation, that the said Provinces, upon, from, and after a certain day in such Proclamation to be appointed, which day shall be within fifteen calendar months next after the passing of this Act, shall form and be one Province, under the name of the Province of Canada, and thenceforth the said Provinces shall constitute and be one Province, under the name aforesaid, upon, from, and after the day so appointed as aforesaid.

[The other sections omitted as not affecting the question.]

## BRITISH NORTH AMERICA ACT.

30 VICT. CAP. 3 (1867).

*An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for purposes connected therewith.*

[29th March, 1867.]

WHEREAS the Provinces of Canada, Nova Scotia and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom :

And Whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire :

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared :

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America :

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

### I.—PRELIMINARY.

1. This Act may be cited as "The British North America Act, 1867."

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

### II.—UNION.

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that name accordingly.

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

[The remaining sections omitted as not affecting the question.]

*The Royal Charter for incorporating the Hudson's Bay Company, granted by His Majesty, King Charles the Second, in the 22nd year of his reign, A.D. 1670.*

CHARLES THE SECOND, by the grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c., To all to whom these presents shall come, greeting:

WHEREAS our dear entirely beloved Cousin, Prince Rupert, Count Palatine of the Rhine, Duke of Bavaria and Cumberland, &c.; Christopher Duke of Albemarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, and Sir Robert Vyner, Knights and Baronets; Sir Peter Colleton, Baronet; Sir Edward Hungerford, Knight of the Bath; Sir Paul Neele, Knight; Sir John Griffith and Sir Philip Carteret, Knights; James Hayes, John Kirke, Francis Millington, William Prettyman, John Fenn, Esquires; and John Portman, Citizen and Goldsmith of London: have, at their own great cost and charges, undertaken an expedition for Hudson's Bay, in the north-west part of America, for the discovery of a new passage into the South Sea, and for the finding some trade for furs, minerals, and other considerable commodities, and by such their undertaking have already made such discoveries as to encourage them to proceed further in pursuance of their said design, by means whereof there may probably arise very great advantage to us and our kingdom.

AND WHEREAS the said Undertakers, for their further encouragement in the said design, have humbly besought us to incorporate them, and grant unto them and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks and sounds aforesaid, which are not now actually possessed by any of our subjects, or by the subjects of any other Christian Prince or State.

NOW KNOW YE, that we, being desirous to promote all endeavours tending to the public good of our people, and to encourage the said undertaking, HAVE, of our especial grace, certain knowledge, and mere motion, given, granted, ratified and confirmed, and by these presents, for us, our heirs and successors, DO give, grant, ratify and confirm, unto our said Cousin, Prince Rupert, Christopher Duke of Albemarle, William Earl of Craven, Henry Lord Arlington, Anthony Lord Ashley, Sir John Robinson, Sir Robert Vyner, Sir Peter Colleton, Sir Edward Hungerford, Sir Paul Neele, Sir John Griffith and Sir Philip Carteret, James Hayes, John Kirke, Francis Millington, William Prettyman, John Fenn, and John Portman, that they, and such others as shall be admitted into the said society as is hereafter expressed, shall be one body corporate and politic, in deed and in name, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and them by the name of "The Governor and Company of Adventurers of England trading into Hudson Bay," one body corporate and politic, in deed and in name, really and fully forever, for us, our heirs, and successors, WE DO make, ordain, constitute, establish, confirm and declare by these presents, and that by the same name of Governor and Company of Adventurers of England trading into Hudson's Bay, they shall have perpetual succession and that they and their successors, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," be, and at all times hereafter shall be personable and capable in law to have, purchase, receive, possess, enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises and hereditaments, of what kind, nature or quality soever they be, to



them and their successors ; and also to give, grant, demise, alien, assign and dispose lands, tenements and hereditaments, and to do and execute all and singular other things by the same name that to them shall or may appertain to do ; and that they and their successors, by the name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," may plead and be impleaded, answer and be answered, defend and be defended, in whatsoever courts and places, before whatsoever judges and justices, and other persons and officers, in all and singular actions, pleas, suits, quarrels, causes and demands whatsoever, of whatsoever kind, nature or sort, in such manner and form as any other our liege people of this our realm of England, being persons able and capable in law, may or can have, purchase, receive, possess, enjoy, retain, give, grant, demise, alien, assign, dispose, plead, defend and be defended, do, permit and execute ; and that the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors may have a common seal to serve for all the causes and businesses of them and their successors, and that it shall and may be lawful to the said Governor and Company, and their successors, the same seal, from time to time, at their will and pleasure, to break, change, and to make anew or alter, as to them shall seem expedient.

AND FURTHER WE WILL, and by these presents, for us, our heirs and successors, WE DO ordain that there shall be from henceforth one of the same Company to be elected and appointed in such form as hereafter in these presents is expressed, which shall be called the Governor of the said Company ; and that the said Governor and Company shall or may select seven of their number, in such form, as hereafter in these presents is expressed, which shall be called the Committee of the said Company, which Committee of seven, or any three of them, together with the Governor or Deputy-Governor of the said Company for the time being, shall have the direction of the voyages of and for the said Company, and the provision of the shipping and merchandizes thereunto belonging, and also the sale of all merchandizes, goods and other things returned, in all or any the voyages or ships of or for the said Company, and the managing and handling of all other business, affairs and things belonging to the said Company : AND WE WILL, ordain and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that they the said Governor and Company, and their successors, shall from henceforth for ever be ruled, ordered and governed according to such manner and form as is hereafter in these presents expressed, and not otherwise ; and that they shall have, hold, retain and enjoy the grants, liberties, privileges, jurisdictions and immunities only hereafter in these presents granted and expressed, and no other : And for the better execution of our will and grant in this behalf, WE HAVE ASSIGNED, nominated, constituted and made and by these presents, for us, our heirs and successors, WE DO ASSIGN, constitute and make our said Cousin, PRINCE RUPERT, to be the first and present Governor of the said Company, and to continue in the said office, from the date of these presents until the 10th November then next following, if he, the said Prince Rupert, shall so long live, and so until a new Governor be chosen by the said Company in form hereafter expressed : AND ALSO WE HAVE assigned, nominated and appointed, and by these presents, for us, our heirs and successors, WE DO assign, nominate and constitute, the said Sir John Robinson, Sir Robert Vyner, Sir Peter Colleton, James Hayes, John Kirke, Francis Millington, and John Portman to be the seven first and present Committees of the said Company, from the date of these presents until the said 10th day of November then also next following, and so on until new Committees shall be chosen in form hereafter expressed : AND FURTHER WE WILL and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that it shall and may be lawful to and for the said Governor and Company for the time being, or the greater part of them present at any public assembly, commonly called the Court General, to be holden for the said Company, the Governor of the said Company being always one, from time to time to elect, nominate and appoint one of the said Company to be Deputy to the said Governor, which Deputy shall take a corporal oath, before the Governor and three or more of the Committee of the said Company for the time being, well, truly and faithfully to execute his said office of Deputy to the Governor of the said Company, and after his oath so taken, shall and may from time to time, in the absence of the said Governor, exercise and execute the office of Governor of the said Company, in such sort as the said Governor ought to do : AND FURTHER WE WILL and grant by these presents, for us, our heirs and successors, unto the said Governor and Company of Adventurers of England trading into Hudson's

Bay, and their successors, that they, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, from time to time, and at all times hereafter, shall and may have authority and power, yearly and every year, between the first and last day of November, to assemble and meet together in some convenient place, to be appointed from time to time by the Governor, or in his absence by the Deputy of the said Governor for the time being, and that they being so assembled, it shall and may be lawful to and for the said Governor or Deputy of the said Governor, and the said Company for the time being, or the greater part of them which then shall happen to be present, whereof the Governor of the said Company or his Deputy for the time being to be one, to elect and nominate one of the said Company, which shall be Governor of the said Company for one whole year then next following, which person being so elected and nominated to be Governor of the said Company, as is aforesaid, before he be admitted to the execution of the said office, shall take a corporal oath before the last Governor, being his predecessor or his Deputy, and any three or more of the Committee of the said Company for the time being, that he shall from time to time well and truly execute the office of Governor of the said Company in all things concerning the same; and that immediately after the same oath so taken, he shall and may execute and use the said office of Governor of the said Company for one whole year from thence next following: And in like sort we will and grant that as well every one of the above-named to be of the said Company of fellowship, as all others hereafter to be admitted or free of the said Company, shall take a corporal oath before the Governor of the said Company or his Deputy for the time being to such effect as by the said Governor and Company or the greater part of them in any public court to be held for the said Company, shall be in reasonable and legal manner set down and devised, before they shall be allowed or admitted to trade or traffic as a freeman of the said Company: AND FURTHER WE WILL and grant by these presents, for us, our heirs and successors, unto the said Governor and Company, and their successors, that the said Governor or Deputy Governor, and the rest of the said Company, and their successors for the time being, or the greater part of them, whereof the Governor or Deputy Governor from time to time, to be one, shall and may from time to time, and at all times hereafter, have power and authority, yearly and every year, between the first and last day of November, to assemble and meet together in some convenient place, from time to time to be appointed by the said Governor of the said Company, or in his absence by his Deputy; and that they being so assembled, it shall and may be lawful to and for the said Governor or his Deputy, and the Company for the time being, or the greater part of them which then shall happen to be present, whereof the Governor of the said Company or his Deputy for the time being to be one, to elect and nominate seven of the said Company, which shall be a Committee of the said Company for one whole year from thence next ensuing, which persons being so elected and nominated to be a Committee of the said Company as aforesaid, before they be admitted to the execution of their office, shall take a corporal oath before the Governor or his Deputy, and any three or more of the said Committee of the said Company, being their last predecessors, that they and every of them shall well and faithfully perform their said office of Committees in all things concerning the same, and that immediately after the said oath so taken, they shall and may execute and use their said office of Committees of the said Company for one whole year from thence next following: AND MOREOVER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO GRANT unto the said Governor and Company, and their successors, that when and as often as it shall happen, the Governor or Deputy Governor of the said Company for the time being, at any time within one year after that he shall be nominated, elected and sworn to the office of the Governor of the said Company, as is aforesaid, to die or to be removed from the said office, which Governor or Deputy Governor not demeaning himself well in his said office, WE WILL to be removable at the pleasure of the rest of the said Company, or the greater part of them which shall be present at their public assemblies commonly called their General Courts, holden for the said Company, that then and so often it shall and may be lawful to and for the residue of the said Company for the time being, or the greater part of them, within a convenient time after the death or removing of any such Governor or Deputy Governor, to assemble themselves in such convenient place as they shall think fit, for the election of the Governor or the Deputy Governor of the said Company; and that the said Company, or the greater part of them, being then and there present, shall and may, then and there, before



their departure from the said place, elect and nominate one other of the said Company to be Governor or Deputy Governor for the said Company in the place and stead of him that so died or was removed; which person being so elected and nominated to the office of Governor or Deputy Governor of the said Company, shall have and exercise the said office for and during the residue of the next year, taking first a corporal oath, as is aforesaid, for the due execution thereof; and this to be done from time to time so often as the case shall so require: AND ALSO, our will and pleasure is, and by these presents for us, our heirs and successors, WE DO grant unto the said Governor and Company, that when and as often as it shall happen any person or persons of the Committee of the said Company for the time being, at any time within one year next after that they or any of them shall be nominated, elected and sworn to the office of Committee of the said Company as is aforesaid, to die or to be removed from the said office, which Committees not demeaning themselves well in their said office, we will to be removable at the pleasure of the said Governor and Company or the greater part of them, whereof the Governor of the said Company for the time being or his Deputy to be one, that then and so often, it shall and may be lawful to and for the said Governor, and the rest of the Company for the time being, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, within convenient time after the death or removing of any of the said Committee, to assemble themselves in such convenient place as is or shall be usual and accustomed for the election of the Governor of the said Company, or where else the Governor of the said Company for the time being or his Deputy shall appoint: And that the said Governor and Company, or the greater part of them, whereof the Governor for the time being or his Deputy to be one, being then and there present, shall and may, then and there, before their departure from the said place, elect and nominate one or more of the said Company to be the Committee of the said Company in the place and stead of him or them that so died, or were or was so removed, which person or persons so nominated and elected to the office of Committee of the said Company, shall have and exercise the said office for and during the residue of the said year, taking first a corporal oath, as is aforesaid, for the due execution thereof, and this to be done from time to time, so often as the case shall require:

And to the end the said Governor and Company of Adventurers of England trading into Hudson's Bay may be encouraged to undertake and effectually to prosecute the said design, of our more special grace, certain knowledge and mere motion, WE HAVE given, granted and confirmed, and by these presents, for us, our heirs and successors, to give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all these seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid, and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called "Rupert's Land."

AND FURTHER WE DO, by these presents, for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places, and of all other the premises, SAVING ALWAYS the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same to HAVE, HOLD, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors for ever, TO BE HOLDEN of us, our heirs and successors, as of our manor at East Greenwich, in our county of Kent, in free and common socage, and not in capite or by Knight's service, YIELDING AND PAYING yearly to us, our

heirs and successors, for the same, two elks and two black beavers, whensoever and as often as we, our heirs and successors, shall happen to enter into the said countries, territories and regions hereby granted.

AND FURTHER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO grant unto the said Governor and Company, and their successors, that it shall and may be lawful to and for the said Governor and Company and their successors, from time to time, to assemble themselves, for or about any the matters, causes, affairs or businesses of the said trade, in any place or places for the same convenient, within our dominions or elsewhere, and there to hold court for the said Company and the affairs thereof; and that, also, it shall and may be lawful to and for them, and the greater part of them, being so assembled, and that shall then and there be present, in any such place or places, whereof the Governor or his Deputy for the time being to be one, to make, ordain and constitute such and so many reasonable laws, constitutions, orders and ordinances as to them, or the greater part of them, being then and there present, shall seem necessary and convenient for the good government of the said Company, and of all governors of colonies, forts and plantations, factors, masters, mariners and other officers employed or to be employed in any of the territories and lands aforesaid, and in any of their voyages; and for the better advancement and continuance of the said trade or traffic and plantations, and the same laws, constitutions, orders and ordinances so made, to put in, use and execute accordingly, and at their pleasure to revoke and alter the same or any of them, as the occasion shall require: And that the said Governor and Company, so often as they shall make, ordain or establish any such laws, constitutions, orders and ordinances, in such form as aforesaid, shall and may lawfully impose, ordain, limit and provide such pains, penalties and punishments upon all offenders, contrary to such laws, constitutions, orders and ordinances, or any of them, as to the said Governor and Company for the time being, or the greater part of them, then and there being present, the said Governor or his Deputy being always one, shall seem necessary, requisite or convenient for the observation of the same laws, constitutions, orders and ordinances; and the same fines and amerciaments shall and may, by their officers and servants from time to time to be appointed for that purpose, levy, take and have, to the use of the said Governor and Company, and their successors, without the impediment of us, our heirs or successors, or of any the officers or ministers of us, our heirs or successors, and without any account therefore to us, our heirs or successors, to be made: All and singular which laws, constitutions, orders, and ordinances, so as aforesaid to be made, WE WILL to be duly observed and kept under the pains and penalties therein to be contained; so always as the said laws, constitutions, orders and ordinances, fines and amerciaments, be reasonable and not contrary or repugnant, but as near as may be agreeable to the laws, statutes or customs of this our realm.

AND FURTHERMORE, of our ample and abundant grace, certain knowledge and mere motion, WE HAVE granted, and by these presents, for us, our heirs and successors, DO grant unto the said Governor and Company, and their successors, that they and their successors, and their factors, servants and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use and enjoy, not only the whole, entire, and only trade and traffic, and the whole, entire, and only liberty, use and privilege of trading and trafficking to and from the territory, limits and places aforesaid; but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes and seas, into which they shall find entrance or passage by water or land out of the territories, limits and places aforesaid; and to and with all the natives and people inhabiting, or which shall inhabit within the territories, limits and places aforesaid; and to and with all other nations inhabiting any the coasts adjacent to the said territories, limits and places which are not already possessed as aforesaid, or whereof the sole liberty or privilege of trade and traffic is not granted to any other of our subjects.

AND WE, of our further royal favour, and of our more especial grace, certain knowledge and mere motion, HAVE granted, and by these presents, for us, our heirs and successors, DO grant to the said Governor and Company, and to their successors, that neither the said territories, limits and places hereby granted as aforesaid, nor any part thereof, nor the islands, havens, ports, cities, towns, or places thereof or therein contained, shall be visited, frequented or haunted by any of the subjects of us, our heirs or successors, contrary to the true meaning of these presents, and by virtue of our prerogative royal, which we will not have in that behalf argued or brought into question: WE STRAITLY



charge, command and prohibit for us, our heirs and successors, all the subjects of us, our heirs and successors, of what degree or quality soever they be, that none of them, directly or indirectly do visit, haunt, frequent, or trade, traffic or adventure, by way of merchandize, into or from any of the said territories, limits or places hereby granted or any or either of them, other than the said Governor or Company, and such particular persons as now be or hereafter shall be of that Company, their agents, factors and assigns, unless it be by the license and agreement of the said Governor and Company in writing first had and obtained, under their common seal, to be granted, upon pain that every such person or persons that shall trade or traffic into or from any of the countries, territories or limits aforesaid, other than the said Governor and Company, and their successors, shall incur our indignation, and the forfeiture and the loss of the goods, merchandizes and other things whatsoever, which so shall be brought into this realm of England, or any of the dominions of the same, contrary to our said prohibition, or the purport or true meaning of these presents, for which the said Governor and Company shall find, take and seize in other places out of our dominion, where the said Company, their agents, factors or ministers shall trade, traffic or inhabit by the virtue of these our letters patent, as also the ship and ships, with the furniture thereof, wherein such goods, merchandizes and other things shall be brought and found; and one-half of all the said forfeitures to be to us, our heirs and successors, and the other half thereof WE DO by these presents clearly and wholly, for us, our heirs and successors, give and grant unto the said Governor and Company, and their successors: AND FURTHER, all and every the said offenders, for their said contempt, to suffer such other punishment as to us, our heirs and successors, for so high a contempt, shall seem meet and convenient, and not be in any wise delivered until they and every of them shall become bound unto the said Governor for the time being in the sum of One thousand pounds at the least, at no time then after to trade or traffic into any of the said places, seas, straits, bays, ports, havens or territories aforesaid, contrary to our express commandment in that behalf set down and published: AND FURTHER, of our more especial grace, WE HAVE condescended and granted, and by these presents, for us, our heirs and successors, DO grant unto the said Governor and Company, and their successors, that we, our heirs and successors, will not grant liberty, license or power to any person or persons whatsoever, contrary to the tenor of these our letters patent, to trade, traffic or inhabit, unto or upon any the territories, limits or places afore specified, contrary to the true meaning of these presents, without the consent of the said Governor and Company, or the most part of them: AND, of our more abundant grace and favour of the said Governor and Company, WE DO hereby declare our will and pleasure to be, that if it shall so happen that any of the persons free or to be free of the said Company of Adventurers of England trading into Hudson's Bay, who shall, before the going forth of any ship or ships appointed for a VOYAGE or otherwise, promise or agree, by writing under his or their hands, to adventure any sum or sums of money towards the furnishing any provision, or maintenance of any voyage or voyages, set forth, or to be set forth, or intended or meant to be set forth, by the said Governor and Company, or the most part of them present at any public assembly, commonly called their General Court, shall not within the space of twenty days next after warning given to him or them by the said Governor or Company, or their known officer or minister, bring in and deliver to the Treasurer or Treasurers appointed for the Company, such sums of money as shall have been expressed and set down in writing by the said person or persons, subscribed with the name of said Adventurer or Adventurers, that then and at all times after it shall and may be lawful to and for the said Governor and Company, or the more part of them present, whereof the said Governor or his Deputy to be one, at any of their General Courts or General Assemblies, to remove and disfranchise him or them, and every such person and persons at their wills and pleasures, and he or they so removed and disfranchised, not to be permitted to trade into the countries, territories and limits aforesaid, or any part thereof, nor to have any adventure or stock going or remaining with or amongst the said Company, without the special license of the said Governor and Company, or the more part of them present at any General Court, first had and obtained in that behalf, any thing before in these presents to the contrary thereof in anywise notwithstanding: AND OUR WILL AND PLEASURE IS, and hereby we do also ordain, that it shall and may be lawful to and for the said Governor and Company, or the greater part of them, whereof the Governor for the time being or his Deputy to



be one, to admit into and to be of the said Company all such servants or factors, of or for the said Company, and all such others as to them or the most part of them present, at any court held for the said Company, the Governor or his Deputy being one, shall be thought fit and agreeable with the orders and ordinances made and to be made for the government of the said Company: AND FURTHER, our will and pleasure is, and by these presents for us, our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, that it shall and may be lawful in all elections and by-laws to be made by the General Court of the Adventurers of the said Company, that every person shall have a number of votes according to his stock, that is to say, for every hundred pounds by him subscribed or brought into the present stock, one vote, and that any of those that have subscribed less than One hundred pounds, may join their respective sums to make up One hundred pounds, and have one vote jointly for the same, and not otherwise: AND FURTHER, of our special grace, certain knowledge, and mere motion, WE DO, for us, our heirs and successors, grant to and with the said Governor and Company of Adventurers of England trading into Hudson's Bay, that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any the ports or places afore limited, shall be immediately and from henceforth under the power and command of the said Governor and Company, their successors and assigns; SAVING the faith and allegiance due to be performed to us, our heirs and successors, as aforesaid; and that the said Governor and Company shall have liberty, full power and authority to appoint and establish Governors and all other officers to govern them, and that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, factories, colonies or places of trade within any of the countries, lands or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of the kingdom, and to execute justice accordingly; and in case any crime or misdemeanor shall be committed in any of the said Company's plantations, forts, factories, or places of trade within the limits aforesaid, where judicature cannot be executed for want of a Governor and Council there, then in such case it shall and may be lawful for the chief Factor of that place and his Council to transmit the party, together with the offence, to such other plantation, factory or fort where there shall be a Governor and Council, where justice may be executed, or into this kingdom of England, as shall be thought most convenient, there to receive such punishment as the nature of his offence shall deserve: AND MOREOVER, our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO GIVE and grant unto the said Governor and Company, and their successors, free liberty and license, in case they conceive it necessary, to send either ships of war, men or ammunition into any their plantations, forts, factories or places of trade aforesaid, for the security and defence of the same, and to choose commanders and officers over them, and to give them power and authority, by commission under their common seal, or otherwise, to continue to make peace or war with any prince or people whatsoever, that are not Christians, in any place where the said Company shall have any plantations, forts or factories, or adjacent thereto, and shall be most for the advantage and benefit of the said Governor and Company, and of their trade: and also to right and recompense themselves upon the goods, estates or people of those parts, by whom the said Governor and Company shall sustain any injury, loss or damage, or upon any other people whatsoever, that shall in any way, contrary to the intent of these presents, interrupt, wrong or injure them in their trade, within the said places, territories and limits granted by this Charter: And that it shall and may be lawful to and for the Governor and Company, and their successors, from time to time, and at all times from henceforth, to erect and build such castles, fortifications, forts, garrisons, colonies or plantations, towns or villages, in any parts or places within the limits and bounds granted before in these presents unto the said Governor and Company, as they in their discretion shall think fit and requisite, and for the supply of such as shall be needful and convenient, to keep and be in the same, to send out of this kingdom, to the said castles, forts, fortifications, garrisons, colonies, plantations, towns or villages, all kinds of clothing, provisions or victuals, ammunition and implements necessary for such purpose, paying the duties and customs for the same, as also to transport and carry over such number of men being willing thereunto, or not prohibited, as they shall think fit, and also to govern them in such legal and reasonable

manner as the said Governor and Company shall think best, and to inflict punishment for misdemeanors, or impose such fines upon them for breach of their orders as in these presents are formally expressed : AND FURTHER our will and pleasure is, and by these presents, for us, our heirs and successors, WE DO grant unto the said Governor and Company, and to their successors, full power and lawful authority to seize upon the persons of all such English, or any other our subjects, which shall sail into Hudson's Bay, or inhabit in any of the countries, islands or territories hereby granted to the said Governor and Company, without their leave and license, and in that behalf first had and obtained, or that shall contemn or disobey their orders, and send them to England, and that all and every person or persons, being our subjects, any ways employed by the said Governor and Company, within any the parts, places, and limits aforesaid, shall be liable unto and suffer such punishment for any offences by them committed in the parts aforesaid, as the President and Council for the said Governor and Company there shall think fit, and the merit of the offence shall require, as aforesaid ; and in case any person or persons being convicted and sentenced by the President and Council of the said Governor and Company, in the countries, lands or limits aforesaid, their factors or agents there, for any offence by them done, shall appeal from the same, that then and in such case it shall and may be lawful to and for the said President and Council, factors or agents, to seize upon him or them, and to carry him or them home prisoners into England, to the said Governor and Company, there to receive such condign punishment as his case shall require, and the law of this nation allow of ; and for the better discovery of abuses and injuries to be done unto the said Governor and Company, or their successors, by any servant by them to be employed in the said voyages and plantations, it shall and may be lawful to and for the said Governor and Company, and their respective President, Chief Agent or Governor in the parts aforesaid, to examine upon oath all factors, masters, pursers, supercargoes, commanders of castles, forts, fortifications, plantations or colonies, or other persons, touching or concerning any matter or thing in which by law or usage an oath may be administered, so as the said oath, and the matter therein contained, be not repugnant, but agreeable to the laws of this realm : AND WE DO hereby straitly charge and command all and singular our Admirals, Vice-Admirals, Justices, Mayors, Sheriffs, Constables, Bailiffs, and all and singular other our officers, ministers, liege men and subjects whatsoever to be aiding, favouring, helping and assisting to the said Governor and Company, and to their successors, and their deputies, officers, factors, servants, assigns and ministers, and every of them, in executing and enjoying the premises, as well on land as on sea, from time to time, when any of you shall thereunto be required ; ANY STATUTE, act, ordinance, proviso, proclamation or restraint heretofore had, made, set forth, ordained or provided, or any other matter, cause or thing whatsoever to the contrary in anywise notwithstanding. IN WITNESS WHEREOF we have caused these our Letters to be made Patent. WITNESS OURSELF at Winchester, the second day of May, in the two-and-twentieth year of our reign.

By Writ of Privy Seal.

PIGOTT.

## ACT 2 W. & M., CHAPTER 15, CONFIRMING THE CHARTER FOR SEVEN YEARS.

*An Act for confirming to the Governor and Company trading to Hudson's Bay their Privileges and Trading.*

FORASMUCH as his late Majesty King Charles the Second, by his Letters Patent or Charter under the Great Seal of England, bearing date the second day of May, in the two-and-twentieth year of his reign, reciting, or taking notice, that his then Highness Prince Rupert, Christopher Duke of Albemarle, William Earl of Craven, and divers other Lords therein particularly named had, at their own great costs and charges, undertaken an expedition to Hudson's Bay, in the north-west parts of America, for the discovery of a new passage into the South Seas, and for finding some trade for furs, minerals and other considerable commodities, and that by such their undertaking they had made such discoveries whereby might probably arise much advantage to his said Majesty and this Kingdom ; for which, and for other reasons and motives in the said charter mentioned, his said late



Majesty was graciously pleased thereby to incorporate, create and make the said Prince Rupert, Duke of Albemarle, Earl of Craven, and other the Lords and persons therein particularly named, and such others as should be admitted into the Society (as therein is mentioned), one body corporate and politic in deed and name, by the name of the Governor and Company of Adventurers of England trading into Hudson's Bay, and by that name to have perpetual succession, and to sue and be sued, take, purchase or grant; and by the said letters patent or charter of incorporation provision was made as well for the appointment and constitution of the first and present, as well as for the choosing, appointing and admitting of all future governors, deputy-governors, committees, members and officers of the said Company, and for the making of laws, constitutions and ordinances, and for the government of the said Company and trade, and otherwise, and the sole trade and commerce of all the seas, straights, bays, lakes, rivers, creeks and sounds, in whatsoever latitude they shall be, that are within the entrance of the straights commonly called Hudson's Straights, together with all the lands and the territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, which were not then actually possessed by or granted to any of his said late Majesty's subjects, or possessed by the subjects of any other Christian prince or state, with divers and sundry privileges, liberties, jurisdictions, franchises, powers and authorities to punish offenders, to sue for and recover penalties, with other powers and authorities, matters and things, in the said letters patent or charter of incorporation mentioned and expressed, were thereby granted to and vested in the same said Company and their successors for ever, in such sort, manner and form as in and by the said charter or letters patent or enrollment thereof, is mentioned and expressed, and as thereby more fully appears: And forasmuch as the said Governor and Company, at their great charges and with much difficulty and hazard, have settled and made great improvements of the trade to the said seas, straights and places aforesaid, which as now and for several years past hath been found to be useful and profitable to this Kingdom, and the navigation thereof for furs, minerals and other considerable commodities; and it appearing that the said trade cannot be carried on or managed so advantageously either to the honour or interest of this realm as in a company and with a joint stock, and it being necessary that such a company should have sufficient and undoubted powers and authorities, privileges and liberties to manage, order and carry on the said trade, and to make bye-laws, orders, rules and constitutions for the due management and regulation as well of the said company as trade, and for the punishment of offenders, and recovering of forfeitures and penalties, which cannot be so effectually done as by authority of Parliament: be it therefore enacted, by the King and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that the present Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, shall at all times from henceforth stand, continue and be a body politic and corporate in deed and name, by the name aforesaid, and according to the purport and effect of the said letters patent or charter hereinbefore mentioned, and that the said letters patent or charter hereinbefore mentioned, bearing date the said second day of May, in the two-and-twentieth year of the reign of his said late Majesty King Charles the Second, and all things therein contained, be, and by virtue of this present Act shall be from henceforth ratified, established and confirmed unto the present Governor and Company of Adventurers of England trading into Hudson's Bay, and to their successors for ever, and also that the said Governor and Company and their successors shall and may have, do, use, exercise and enjoy all and singular the liberties, privileges, powers, authorities, matters and things in the said letters patent or charter mentioned to be granted to them, and also that the said letters patent or charter, and all and every the liberties, franchises, immunities, privileges, jurisdictions, powers, royalties, hereditaments, matters and things whatsoever, and of what nature and kind soever thereby given, granted or demitted, or mentioned to be given, granted or demitted to the said Prince Rupert, Duke of Albermarle, Earl of Craven and other the Lords and persons therein particularly named, and thereby incorporated, and to the Governor and Company thereby created, made or erected, and to their successors, and to all governors, deputy-governors, committees and other members, officers and servants, of or upon the said Governor and Company for the time being, and their successors or otherwise. Howsoever, with and under such restraints and prohibitions, and subject and liable to such forfeitures

and remedies for recovering thereof, as in the said Charter are contained, shall from henceforth be good and effectual, and available in the law, and to all intents, constructions and purposes to the aforesaid new Governor and Company, and their successors for evermore, and shall and may be by the new Governor and Company and their successors from time to time for ever hereafter holden and enjoyed, and put in execution after and according to the form, words, sentences, purport, effect and true meaning of the said letters patent or charter, and that as amply, fully and largely, to all intents, constructions and purposes, as if the same letters patent or charter, and the general matters and things therein mentioned, and thereby granted or mentioned to be granted, were word for word recited and set down at large in this present Act of Parliament, any law, statute, usage, custom or other matter or thing to the contrary notwithstanding. Provided always, and be it further enacted, by the authority aforesaid, that the said Governor and Company shall make at least two public sales of coat beaver in every year, and not exceeding four, and that they shall proportion the same into lots each of about 100*l*. stg., but not exceeding 200*l*. value; and that in the intervals of public sales the said Company may not sell coat beaver by private contract, and at any lower price than it was set up at the last public sale, and that the coat beaver now in the Company's hands shall be liable to the same rules. Provided always, that this Act shall continue and be in force for the time of seven years, and from thence to the end of the next Session of Parliament and no longer."

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43 GEO. III, CAP. CXXXVIII.

*An Act for extending the Jurisdiction of the Courts of Justice, in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain parts of North America adjoining to the said Provinces.*

[11th August, 1803.]

"Whereas Crimes and Offences have been committed in the *Indian Territories* and "other Parts of *America*, not within the Limits of the Provinces of *Lower* or *Upper Canada*, or either of them, or of the Jurisdiction of any of the Courts established in those Provinces, or within the Limits of any Civil Government of the United States of *America*, and are therefore not cognizable by any Jurisdiction whatever, and by reason thereof great Crimes and Offences have gone and may hereafter go unpunished, and "greatly increase:" For remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, all offences committed within any of the *Indian Territories*, or Parts of *America* not within the Limits of either of the said Provinces of *Lower* or *Upper Canada*, or of any Civil Government of the United States of *America*, shall be and be deemed to be Offences of the same Nature, and shall be tried in the same Manner and subject to the same Punishment, as if the same had been committed within the Provinces of *Lower* or *Upper Canada*.

II. And be it further enacted, That it shall be lawful for the Governor or Lieutenant Governor, or Person administering the Government for the Time being of the Province of *Lower Canada*, by Commission under his Hand and Seal, to authorize and empower any Person or Persons, wheresoever resident or being at the Time, to act as Civil Magistrates and Justices of the Peace for any of the *Indian Territories* or parts of *America* not within the Limits of either of the said Provinces or of any Civil Government of the United States of *America*, as well as within the Limits of either of the said Provinces, either upon Information taken or given within the said Provinces of *Lower* or *Upper Canada*, or out of the said Provinces in any part of the *Indian Territories* or parts of *America* aforesaid, for the purpose only of hearing Crimes and Offences, and committing any Person or Persons guilty of any Crime or Offence to safe Custody, in order to his or their being conveyed to the said Province of *Lower Canada*, to be dealt with according to Law; and it shall be lawful for any Person or Persons whatever to apprehend and take



before any Persons so commissioned as aforesaid, or to apprehend and convey, or cause to be conveyed with all convenient Speed, to the Province of *Lower Canada*, any Person or Persons guilty of any Crime or Offence, there to be delivered into safe Custody for the Purpose of being dealt with according to Law.

III. And be it further enacted, That every such Offender may and shall be prosecuted and tried in the Courts of the Province of *Lower Canada* (or if the Governor or Lieutenant Governor, or Person administering the Government for the Time being, shall, from any of the Circumstances of the Crime or Offence, or the local Situation of any of the Witnesses for the Prosecution or Defence, think that justice may more conveniently be administered in relation to such Crime or Offence in the Province of *Upper Canada*, and shall by any Instrument under the Great Seal of the Province of *Lower Canada*, declare the same, then that every such Offender may and shall be prosecuted and tried in the Court of the Province of *Upper Canada*), in which Crimes or Offences of the like Nature are usually tried, and where the same would have been tried if such Crime or Offence had been committed within the Limits of the Province where the same shall be tried under this Act; and every Offender tried and convicted under this Act shall be liable and subject to such Punishment as may by any Law, in force in the Province where he or she shall be tried, be inflicted for such Crime or Offence; and such Crime and Offence may and shall be laid and charged to have been committed within the jurisdiction of such Court, and such Court may and shall proceed to Trial, Judgment, and Execution, or other Punishment for such Crime or Offence in the same Manner in every Respect as if such Crime or Offence had been really committed within the Jurisdiction of such Court; and it shall also be lawful for the Judges and other Officers of the said Courts to issue Subpœnas and other Processes for enforcing the Attendance of Witnesses on any such Trial; and such Subpœnas and other Processes shall be as valid and effectual, and be in full force and put in Execution on any Parts of the *Indian Territories*, or other parts of *America* out of and not within the Limits of the Civil Government of the United States of *America*, as well as within the Limits of either of the said Provinces of *Lower* or *Upper Canada*, in relation to the Trial of any Crimes or Offences by this Act made cognizable in such Court, or to the more speedily and effectually bringing any Offender or Offenders to Justice under this Act, as fully and amply as any Subpœnas or other processes are within the Limits of the Jurisdiction of the Court, from which any such Subpœnas or Processes shall issue as aforesaid; any Act or Acts, Law or Laws, Custom, Usage, Matter or Thing to the contrary notwithstanding.

IV. Provided, always, and be it further enacted, That if any Crime or Offence charged and prosecuted under this Act shall be proved to have been committed, by any Person or Persons, not being a Subject or Subjects of His Majesty, also within the Limits of any Colony, Settlement, or Territory belonging to any *European State*, the Court before which such Prosecution shall be had shall forthwith acquit such Person or Persons not being such Subject or Subjects as aforesaid of such Charge.

V. Provided nevertheless, That it shall and may be lawful for such Court to proceed in the Trial of any Person, being a Subject or Subjects of His Majesty, who shall be charged with the same or any other Offence, notwithstanding such Offence shall appear to have been committed within the Limits of any Colony, Settlement or Territory belonging to any *European State* as aforesaid.

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#### TREATY OF ST. GERMAIN, 1632 (Extract).

*Traité entre Louis XIII., Roi de France, et Charles I., Roi d'Angleterre, pour la restitution de la Nouvelle France, l'Acadie et le Canada, et des Navires et Marchandises pris de part et d'autre. Fait à St. Germain-en-Laye, le 29eme jour de Mars, 1632.*

III. De la part de Sa Majesté de la Grande Bretagne, ledit Sieur Ambassadeur, (Sir Isaac Wake,) en vertu du pouvoir qu'il a, lequel sera à la fin des présentes, a promis et promet pour et au nom de Sadite Majesté, de rendre et restituer à Sa Majesté Très-Chrétienne, tous les lieux occupés en la Nouvelle France, l'Acadie et le Canada, par les sujets de Sa Majesté de la Grande Bretagne; iceux faire retirer desdits lieux. Et pour cet effet

ledit Sieur Ambassadeur délivrera, lors de la passation et signature des présentes, aux commissaires du Roi Très-Chrétien, en bonne forme le Pouvoir qu'il a de Sa Majesté de la Grande Bretagne, pour la restitution desdits lieux, ensemble les commandements de Sadite Majesté, à tous ceux qui commandent dans le Fort-Royal, Fort de Québec et Cap Breton, pour être lesdites places et forts rendues et remis es mains de ceux qu'il plaira à Sa Majesté Très-Chrétienne ordonner, huit jours après lesdits commandements auront été notifiées à ceux qui commandent ou commanderont esdits lieux, ledit tems de huit jours leur étant donné pour retirer, cependant, hors desdits lieux, places et forts leurs armes, bagage, marchandises ou argent, ustensiles, et généralement tout ce qui leur appartient, auxquels et à tous ceux qui sont esdits lieux est donné le terme de trois semaines après lesdits huit jours expirés, pour durant icelles, au plutôt si faire se peut, retirer en leur navires avec leurs armes, munitions, bagages, &c., argent, ustensiles, marchandises, pelletteries, et généralement tout ce qui leur appartient pour de qui la se retirer en Angleterre, sans séjourner davantage esdit pais. Et Comme il est nécessaire que les Anglois envoient esdits lieux pour reprendre leur gens et les ramener en Angleterre, il est accordé que le général de Caën payera les frais nécessaires pour l'équipage d'un navire de, deux cent ou deux cent cinquante tonneaux de port, que les Anglois enverront esdits lieux, à scavoir : le louage d'un navire d'allée et de retours, victuailles de gens, tant de marines pour la conduite du navire, que de ceux qui sont à terre, lesquels on doit ramener : salaire d'iceux, et généralement tout ce qui est nécessaire pour l'équipage d'un navire dudit port pour un tel voyage, selon les usages et coûtures d'Angleterre; et de plus, que pour les marchandises loyales et marchandises qui pourront rester es mains des Anglois non troqués, il leur donnera satisfaction esdits lieux selon qu'elles auront conté en Angleterre avec trente pour cent de profit, en considération des risques de la mer et port d'icelles payé par eux.\*

#### TREATY OF BRED A, 1667 (Extract).

Art. X. Le ci-devant nommé seigneur le Roi de la Grande Bretagne restituera aussi et rendra au ci-dessus nommé seigneur le Roi Très Chrétien ou à ceux qui auront charge et mandement de sa part, scellés en bonne forme du grand sceau de France, le pays appelé l'Acadie, situé dans l'Amerique Septentrionale dont le Roi Très Chrétien a autrefois joui.† (Relates only to Nova Scotia.)

\*III. On the part of the King of Great Britain, the said ambassador, in virtue of the powers with which he is vested, and which shall be inserted at the end of these presents, has promised and promises in the name of his said Majesty to give up and restore (*rendre et restituer*) all the places occupied in New France, Acadia, and Canada by the subjects of the King of Great Britain, by whom these places shall be restored; and to this end the said Ambassador shall deliver at the time of the signature of these presents to the Commissioners of His Most Christian Majesty, in due form, the authority which he received from the King of Great Britain for the restitution of the said places, together with the orders of his said Majesty to all those who had command in Fort Royal, the Fort of Quebec and Cape Breton, for the restoration of the said places and forts given up into the hands of those whom it may please His Most Christian Majesty to appoint, eight days after these orders shall have been notified to those who command or may then command; the said time of eight days being given to them to remove from those places and forts their arms, baggage, merchandise or money, utensils, and generally everything that belongs to them; to whom and to all who are in the said places, the term of three weeks, after the expiration of the eight days, is given, that they may during that time, or sooner if possible, retire to their vessels with their arms, munitions, baggage or money, utensils, merchandise, furs, and generally everything that belongs to them, for the purpose of going thence to England without remaining longer in this country. And as it is necessary for the English to send to those places to fetch their people and take them back to England, it is agreed that General de Caën shall pay the necessary expenses of equipping a vessel of two hundred tons, or two hundred and fifty tons' burthen which the English shall send to those places; that is to say, the cost of chartering a vessel for the passage to and fro, the provisions of the sailors who work the vessel as well as of those who being on land are to be taken away, the wages of the men, and generally all that is necessary for the equipage of a vessel of the said tonnage for such a voyage, according to the usages and customs of England; and besides for the merchandise remaining unsold in the hands of the English, satisfaction shall be given, according to the cost in England, with thirty per cent. of profit, in consideration of the risk of the sea and port charges.

†Art. X. The before mentioned seigneur, King of Great Britain, shall restore and give up to the above named seigneur, the Most Christian King, or to those who shall be charged and authorised on his part, sealed in proper form with the great seal of France, the country called Acadie, situated in North America, of which the Most Christian King was previously in enjoyment.

Mr. Prior, in a letter to Lord Bolingbroke, dated Paris, March 25, 1713:—"As to the original instrument of the Treaty of Breda, I may tell you that we never could find it, and consequently the Treaty of Ryswick, ratified as you have it in one of the offices, remains still in French."



## TREATY OF NIMEGUEN, 1678 (Extract).

Articles of Peace between the Emperor and the French King, concluded and signed at Nimeguen, the 3rd of December, 1678 :

XXXII. Their Imperial and Most Christian Majestys, retaining a grateful sense of the offices and continual endeavours the Most Serene King of Great Britain hath used to restore a general peace and public tranquillity, it is mutually agreed between the parties that he with his kingdom be included in this treaty, after the best and most effectual manner that may be.

Art. I. That there be a Christian, universal, true and sincere peace and friendship between their Imperial and Most Christian Majestys, their heirs and successors, kingdoms and provinces, as also between all and every the confederates of his said Imperial Majesty, more particularly the electors, princes and states of the empire, comprehended in this peace, their heirs and successors on the one part, and all and every of the confederates of his said Most Christian Majesty, comprehended in this peace, their heirs and successors on the other ; which said peace and friendship shall be so sincerely observed and improved that each party shall promote the honour, advantage and interest of the other. And there shall be so perpetual an oblivion and amnesty of all hostilities committed on each side since the beginning of the present troubles, that neither party shall, upon that or any other account or pretence, give or cause to be given hereafter to the other any trouble, directly or indirectly, under colour of law or way of fact, within or without the empire, any formal agreement to the contrary notwithstanding ; but all and every the injuries, violences, hostilities, damages and charges sustained on each side by words, writing or deeds, shall without respect of persons or things be so entirely abolished that whatsoever may upon that account be pretended against the other. shall be buried in perpetual oblivion.

## TREATY OF NEUTRALITY (Extract).

*Traité de neutralité conclu à Londres le 16ème Novembre, 1686, entre Louis XIV., Roi de France, et Jacques II., Roi d'Angleterre.*

I. Il a esté conclu et accordé, que du jour du présent traité, il y aura entre la nation Française et la nation Angloise, une ferme paix, union, concorde, et bonne correspondence, tant sur mer que sur terre, dans l'Amérique Septentrionale et Méridionale, et dans les isles, colonies, forts et villes, sans aucune distinction de lieux, seises, dans les états de Sa Majesté Très Chrétienne, et de Sa Majesté Britannique, et gouvernées par les commandants de leur susdites Majestés respectivement.

II. Qu'aucuns vaisseaux ou bâtimens, grands ou petits, appartenant au sujets de Sa Majesté Très Chrétienne, ne seront équipés ni employez dans lesdites isles, colonies, forteresses, villes, et gouvernemens des états de Sa Majesté pour attaquer les sujets de Sa Majesté Britannique, dans les isles, colonies, forteresses, villes, et gouvernemens de Sadite Majesté, ou pour leur faire aucun tort ni dommage. Et pareillement qu'aucun vaisseaux ou bâtimens, grands ou petits, appartenant aux sujets de sa Majesté Britannique, ne seront équipés ou employez dans les isles, colonies, forteresses, villes, et gouvernemens de Sadite Majesté, pour attaquer les sujets de Sa Majesté Très Chrétienne dans les isles, colonies, forteresses, villes, et gouvernemens de Sadite Majesté, ou pour leur faire aucun tort ni dommage.

III. Qu'aucuns soldats ou gens de guerre, ou autres personnes quelconques, qui habitent et demeurent dans lesdites isles, colonies, forteresses, villes, et gouvernemens de Sa Majesté Très Chrétienne, ou qui y viennent d'Europe en garnison, n'exerceront aucun acte d'hostilité, et ne feront aucun tort ou dommage, directement ou indirectement, aux sujets de Sa Majesté Britannique dans lesdites isles, colonies, forteresses, villes, et gouvernemens de Sadite Majesté ; et ne presteront ni donneront aucun aide ou secours d'hommes ou de vivres aux sauvages contre qui Sa Majesté Britannique aura la guerre. Et pareillement qu'aucuns soldats ou gens de guerre, ou autres personnes quelconques, qui habitent et demeurent dans lesdites isles, colonies, forteresses, villes, et gouvernemens de Sa Majesté Britannique, ou qui y viennent d'Europe en garnison, n'exerceront aucun acte

d'hostilité, et ne feront tort ou dommage aux sujets de Sa Majesté Très Chrétienne dans lesdites isles, colonies, forteresses, villes, et gouvernements de Sa Majesté ; et ne prêteront, ni donneront aucune aide ou secours d'hommes ou de vivres aux sauvages avec qui Sa Majesté Très Chrétienne aura guerre.

IV. Il a été convenu que chacun desdits Rois aura et tiendra les domaines, droits et prééminences dans les mers, détroits, et autres eaux de l'Amérique, et avec la même étendue qui leur appartient de droit, en la même manière qu'ils jouissent à présent. \* \* \*

XI. Que les commandants, officiers, sujets de l'un des deux Rois, ne troubleront ni molesteront les sujets de l'autre Roi dans l'établissement de leur colonies respectivement, ou dans leur commerce et navigation.

XII. Et afin de pourvoir plus pleinement à la sécurité des sujets, tant de Sa Majesté Très Chrétienne, que de Sa Majesté Britannique, et à ce que les vaisseaux de guerre, ou autres vaisseaux armés en guerre par des particuliers, ne leur fassent aucun tort ni dommage, il sera défendu à tous les capitaines de vaisseaux, tant de Sa Majesté Très Chrétienne, que de Sa Majesté Britannique, et à tous leurs sujets qui équiperont des vaisseaux à leurs dépens ; comme aussi aux privilégiés et aux compagnies, de faire aucun tort ou dommage à ceux de l'autre nation, sous peine d'être punis en cas de contravention, et de plus d'être tenus à tous dommages et intérêts, à quoi ils pourront être contraints, tant par saisie de leur biens que par emprisonnement de leur personnes.

[By Art. XIII. All captains of war vessels, armed at the expense of private persons, were hereafter to give bonds in the sum of £1,000 stg., or 13,000 livres, and when the number of men is more than 150, in £2,000 stg., or 26,000 livres, that they would make good all damages which they or their officers might cause in the course of their navigation against the present treaty.]

[By Art. XIV. The governors and officers of the two Kings were to discountenance all pirates ; not giving them any aid nor allowing them to take shelter in their ports respectively ; et qu'il sera expressément ordonné auxdits s'gouverneurs et officiers de punir comme pirates tous ceux qui se trouveront avoir armé un ou plusieurs vaisseaux en course sans commission et autorité légitime.]

[XV. Made the taking, by the subject of either King, of any commission in the army of a sovereign at war with the other piracy.]

[XVII. If disputes arise between the subjects of the two Crowns in the isles, colonies, ports, towns and governments under their dominion, they are not to be allowed to interrupt the peace, but are to be decided by those having authority on the spot, and in case they cannot decide them, they are to remit them at once to the two Crowns, to be settled by their Majesties.]

XVIII. De plus, il a esté conclu et accordé, que si jamais, ce qu'à Dieu ne plaise, il arrive quelque rupture en Europe entre lesdites Couronnes, les garnisons, gens de guerre, ou sujets quelconques de Sa Majesté Très Chrétienne, estant dans les isles, colonies, forts, villes, et gouvernements qui sont à présent ou seront ci-après sous la domination de Sa Majesté dans l'Amérique, n'exerceront aucun acte d'hostilité par mer ni par terre, contre les sujets de Sa Majesté Britannique qui habiteront dans quelques colonies que ce soit de l'Amérique, ou y demeureront. Et réciproquement, audit cas de rupture en Europe, les garnisons, gens de guerre, ou sujets quelconques de Sa Majesté Britannique, estans dans les isles, colonies, forts, villes, et gouvernements qui sont à présent ou seront ci-après sous la domination de Sa Majesté Britannique en Amérique, n'exerceront aucun acte d'hostilité, ni par mer ni par terre, contre les sujets de Sa Majesté Très Chrétienne, qui habiteront dans quelques colonies que ce soit de l'Amérique, ou y demeureront. Mais il y aura toujours une véritable et ferme paix et neutralité entre lesdits peuples de France et de la Grande Bretagne, tout de même que si ladite rupture n'était point arrivé en Europe.\*

\* *Treaty of Neutrality concluded at London, the 16th November, 1686, between Louis XIV., King of France and James II., King of England.*

I. It has been concluded and agreed that from the day of the present Treaty there shall be between the English and the French nations a firm peace, union, concord, and good correspondence as well by sea as land in North and South America, and in the isles, colonies, forts and towns, without exception, in the territories of his Most Christian Majesty, and governed by the Commandants of their said Majesties respectively.

II. That no vessel or boat, large or small, belonging to the subjects of his Most Christian Majesty shall be equipped or employed in the said isles, colonies, fortresses, towns and governments of his said Majesty,



## PROVISIONAL TREATY CONCERNING AMERICA, 1687.

*Traité provisionnel concernant l'Amérique, entre le Roi de France et le Roi d'Angleterre, conclu à Whitehall le 1-11 Décembre 1687*—Between Louis XIV. and James II., M. Paul Barillon, Councillor of State and French Ambassador, M. François Dussion de Bonrepans, were the Commissaires for France, and Counts Sunderland and Middleton and Sidney, Lord of Godolphin, were appointed on behalf of Great Britain, pour l'exécution du traité conclu le 6-16 Novembre, 1686, pour régler et terminer toutes les contestations et differends qui sont survenus, ou qui peuvent survenir entre les sujets des deux Couronnes en Amérique comme aussi pour fixer les bornes et limites des colonies, isles, terres et pays qui sont sous la domination des deux Rois en l'Amérique et gouvernés par leur commandants, ou qui sont de leur dépendances; nous, commissaires susdits en vertu des pouvoirs qui nous ont été donnés par lesdits Rois nos maîtres promettons, convenons et stipulons en leur nom, par le présent traité que jusques au 11 de Janvier de l'année, 1689, nouveau style, et après ce temps-là jusqu'à ce que lesdits Sérénissimes Rois donnent sur cela

for the purpose of attacking the subjects of his Britannic Majesty, in the isles, colonies, fortresses, towns and governments of his said Majesty, or doing there any harm or damage. And in this manner, likewise, that no vessel or boat, great or small, belonging to the subjects of his Britannic Majesty shall be equipped or employed in the isles, colonies, fortresses, town and governments of his said Majesty, for the purpose of attacking the subjects of his Most Christian Majesty in the isles, colonies, fortresses, towns and governments, of his said Majesty, or to do them any injury or damage.

III. That no soldier or person wearing arms or any other person whatsoever residing or living in the said isles, towns, or governments of his Most Christian Majesty, or who has come from European garrison, shall exercise any act of hostility, or do any injury or damage directly or indirectly, to the subjects of his Britannic Majesty in the said isles, colonies, fortresses, towns and governments of his said Majesty; or lend or give any aid or assistance in men or provisions to savages against whom his Britannic Majesty shall be at war. And in like manner, no soldier or armed person, or any other persons whatever, residing or being in the said isles, colonies, fortresses, towns and governments of his said Britannic Majesty, or who having come from Europe in garrison, shall exercise any act of hostility or do any injury or damage to subjects of his Most Christian Majesty in the said isles, colonies, fortresses, towns and governments of his Majesty; or lend or give any aid or assistance, in men or provisions, to savages with whom his Most Christian Majesty shall be at war.

IV. It has been agreed that each of the said kings shall have and hold the domains, rights and pre-eminences in the seas, straits, and other waters of America, and in the same extent which of right belongs to them and in the same way they enjoy them at present.

V. And therefore the subjects, inhabitants, merchants, commanders of ships, masters and mariners of the kingdoms, provinces and dominions of each king respectively shall abstain and forbear to trade and fish in all the places possessed, or which shall be possessed by one or the other party in America, viz.: the King of Great Britain's subjects shall not drive their trade and commerce, nor fish in the harbours, bays, creeks, roads, shoals or places which the Most Christian King holds or shall hereafter hold in America: And in like manner, the Most Christian King's subjects shall not drive their commerce and trade, nor fish in the waters, bays, creeks, roads, shoals or places which the King of Great Britain possesses or shall hereafter possess in America. And if any ship or vessel shall be found trading or fishing contrary to the tenor of this Treaty, the said ship or vessel, with its lading, proof being given thereof, shall be confiscated; nevertheless, the party who shall find himself aggrieved by such sentence or confiscation, shall have liberty to apply himself to the Privy Council of the King, by whose governors or judges the sentence has been given against him. But it is always to be understood that the liberty of navigation ought in no manner to be disturbed, where nothing is committed against the genuine sense of this Treaty.

XI. The commandants, officers, subjects of one and the other of the two kings, shall not molest the subjects of the other king in the establishment of their colonies respectively, or in their commerce and navigation.

XII. For the greater security of the subjects of his Most Christian Majesty as well as those of his Britannic Majesty, and to prevent vessels of war or other vessels owned by private persons doing injury or damage, all captains of vessels, as well of his Most Christian Majesty as those of his Britannic Majesty, and all their subjects who equip vessels at their own expense, also persons in the enjoyment of privileges and companies, shall be forbidden to do any injury or damage to those of the other nation, on pain of being punished in case of contravention, and be liable for all damages, either by the seizure of their goods or the imprisonment of their persons.

XVIII.—Further, it has been concluded and agreed that if ever, which God forbid, any rupture should take place in Europe between the said Crowns, the garrison, armed forces, or subjects of whatever condition of his Most Christian Majesty, being in the isles, colonies, forts, towns and governments which are at present, or may hereafter be, under the dominion of his said Majesty in America, shall not exercise any act of hostility by sea or land against the subjects of his Britannic Majesty, inhabitants of any of the colonies of America. And in like manner, in case of a rupture in Europe, the garrison, armed force, or subjects of whatever condition of his Britannic Majesty, being in the isles, colonies, forts, towns and governments which are at present, or may hereafter be, under the dominion of his Britannic Majesty in America, shall not exercise any act of hostility, either by sea or land, against the subjects of his Most Christian Majesty inhabiting any colony whatever in America. But there shall always be a firm peace and neutrality between the said peoples of France and of Great Britain, just as if no such rupture had taken place.

XIX.—This Treaty not to derogate from the Treaty of Breda, July, 1667, all the articles of which are to remain in force and vigour and be observed.

quelques nouveaux ordres exprès et par écrit, il est absolument défendu à toutes personnes et aux commandants ou gouverneurs des colonies, isles, terres et pays qui sont sous la domination des deux Rois dans l'Amérique, d'exercer aucun acte d'hostilité contre les sujets de l'un desdits Rois, ou de les attaquer; et les commandants ou gouverneurs ne souffriront pas, sous quelque prétexte que ce soit, qu'il leur soit fait aucune violence; et en cas de contravention de la part desdits gouverneurs, ils seront punis et obligés, en leur propre et privé nom, à la réparation du dommage qui aura été causé par une telle contravention; ce qui aura lieu aussi à l'égard de tous autres contraventions, et la présente convention aura son plein et entier effet en la meilleure manière que ce puisse être; nous sommes convenus, en outre, que lesdits Sérénissimes Rois enverront au plutôt les ordres nécessaires à cet égard à leurs commandants en l'Amérique, et qu'il en sera remis réciproquement de part et d'autre des exemplaires authentiques.

(Signé,) BARILLON D'AMONCOURT.  
 " DUSSON DE BONREPANS.  
 " Comes de SUNDERLAND.  
 " Comes de MIDDLETON.  
 " GODOLPHIN.\*

## THE TREATY OF RYSWICK, 1697.

*(From the Copy published in England by Authority in 1697.)*

VII. The Most Christian King shall restore to the said King of Great Britain all countries, islands, forts and colonies, wheresoever situated, which the English did possess before the declaration of this present war. And in like manner the King of Great Britain shall restore to the Most Christian King all countries, islands, forts and colonies, wheresoever situated, which the French did possess before the declaration of war; and this restitution shall be made on both sides within the space of six months or sooner, if it can be done. And to that end, immediately after the ratification of this Treaty, each of the said Kings shall deliver or cause to be delivered to the other, or to commissioners authorized in his name for that purpose, all acts of concession, instruments and necessary orders duly made and in proper form, so that they may have their effect.

VIII. Commissioners shall be appointed on both sides to examine and determine the rights and pretensions which either of the said Kings hath to the places situated in Hudson's Bay; but the possession of those places which were taken by the French, during the peace that preceded this present war, and were retaken by the English during this war, shall be left to the French by virtue of the foregoing articles. The capitulation

\* Provisional Treaty concerning America, between the King of France and the King of England, concluded at Whitehall, December 11, 1687, [Louis XIV. and James II.] M. Paul Barillon, Councillor of State and French Ambassador, M. Francois Dussion de Bonrepans, were the Commissaires for France, and Counts Sunderland and Middleton, and Lord of Godolphin, were appointed on behalf of Great Britain, to execute the treaty concluded on the 6-16 November, to settle and terminate all the differences which have arisen between the subjects of the two Crowns, in America, as well as to fix the bounds and limits of the colonies, isles, islands, lands, and countries which are under the dominion of the two Kings in America and governed by their commandants, or which are of their dependencies; we, the undernamed Commissioners, in virtue of the powers which we have received from the said Kings, our Masters, promise, agree and stipulate in their name, by the present treaty, that, up to the 11th January of the year 1689, new style, and after that time until the said Most Serene Kings give some new and express order in writing, all persons and governors and commanders of the colonies, isles, lands and countries whatsoever under the dominion of the two Kings in America, are absolutely forbidden to commit any act of hostility against the subjects of the said Kings, or to attack them; and the Governors and Commandants are not to suffer, under any pretext whatever, that they shall do any violence; and in case of contravention on the part of the said Governors, they shall be punished, and obliged, in their own private names, to make restitution for the damage which may have been done by such contravention; and the same shall be done in the case of all other contraventions; and the present convention shall have full and entire effect in the best manner possible. We have, besides, agreed that the said Most Serene Kings shall, as soon as possible, send the necessary orders to their commandants in America, and that each shall send to the other authentic copies of the same.

(Signed) BARILLON D'AMONCOURT.  
 DUSSON DE BONREPANS.  
 SUNDERLAND.  
 MIDDLETON.  
 GODOLPHIN.



made by the English on the 5th September, 1695, shall be observed according to its form and tenor, the merchandizes therein mentioned shall be restored ; the Governor at the Fort taken there shall be set at liberty, if it be not already done ; the differences which have arisen concerning the execution of the said capitulation and the value of the goods there lost, shall be adjudicated and determined by the said commissioners ; who, immediately after the ratification of the present Treaty, shall be invested with sufficient authority for the settling of the limits and confines of the lands to be restored on either side by virtue of the foregoing article, and likewise for exchanging of lands, as may conduce to the mutual interest and advantage of both Kings.

TREATY OF UTRECHT—1711. (Extracts.)

X. The said Most Christian King shall restore to the kingdom and Queen of Great Britain, to be possessed in full right forever, the bay and streights of Hudson, together with all lands, seas, sea-coasts, rivers, and places situate in the said bay and streights and which belong thereunto, no tracts of land or of sea being excepted, which are at present possessed by the subjects of France. All which, as well as any buildings there made in the condition they now are, and likewise all fortresses there erected either before or since the French seized the same, shall, within six months from the ratification of the present treaty, or sooner if possible, be well and truly delivered to the British subjects having commission from the Queen of Great Britain to demand and receive the same, entire and undemolished, together with all the cannon and cannon-ball which are therein, as also with a quantity of powder if it be there found, in proportion to the cannon-ball, and with the other provision of war usually belonging to cannon. It is, however, provided, that it may be entirely free for the Company of Quebec, and all other the subjects of the Most Christian King whatsoever, to go by land, or by sea, whithersoever they please, out of the lands of the said bay, together with all their goods, merchandizes, arms, and effects of what nature or condition soever, except such things as are above referred in this article. But it is agreed on both sides, to determine within a year by Commissaries to be forthwith named by each party, the limits which are to be fixed between the said Bay of Hudson and the places appertaining to the French ; which limits both the British and French subjects shall be wholly forbid to pass over, or thereby to go to each other by sea or by land. The same Commissaries shall also have orders to describe and settle, in like manner, the boundaries between the other British and French colonies in those parts.

XI. The above mentioned Most Christian King shall take care that satisfaction be given, according to the rule of justice and equity, to the English Company trading to the Bay of Hudson, for all damages and spoil done to their colonies, ships, persons and goods, by the hostile incursions and depredations of the French, in time of peace, an estimate being made thereof by Commissaries to be named at the requisition of each party. The same Commissaries shall moreover inquire as well into the complaints of the British subjects concerning ships taken by the French in time of peace, as also concerning the damages sustained last year in the island called Montserrat and others, as into those things of which the French subjects complain, relating to the capitulation in the island of Nevis, and castle of Gambia, also to French ships, if perchance any such have been taken by British subjects in time of peace ; and in like manner into all disputes of this kind which shall be found to have arisen between both nations, and which are not yet ended ; and due justice shall be done on both sides without delay.

XII. The most Christian King shall take care to have delivered to the Queen of Great Britain, on the same day that the ratification of this treaty shall be exchanged, solemn and authentic letters, or instruments, by virtue whereof it shall appear, that the Island of St. Christophers is to be possessed alone hereafter by British subjects, likewise all Nova Scotia or Acadie, with its ancient boundaries, as also the City of Port Royal, now called Annapolis Royal, and all other things in those parts which depend on the said lands and islands together with the dominion, propriety, and possession of the said islands, lands, and places, and all right whatsoever, by treaties, or by any other way obtained, which the most Christian King, the Crown of France, or any the subjects thereof, have hitherto had to the said islands, lands, and places, and the inhabitants of the same, are yielded and made over to the Queen of Great Britain, and to her Crown forever, as the

most Christian King doth at present yield and make over all the particulars abovesaid, and that in such ample manner and form, that the subjects of the most Christian King shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places, on the coasts of Nova Scotia, that is to say, on those which lie towards the east within thirty leagues, beginning from the island commonly called Sable inclusively, and thence stretching along towards the south-west.

XIII. The island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French shall be yielded and given up, within seven months from the exchange of the ratifications of this treaty, or sooner, if possible, by the most Christian King, to those who have a commission from the Queen of Great Britain for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter lay claim to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said Island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish; or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish and to dry them on land in that part only, and in no other besides that, of the said Island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the River St. Lawrence and in the gulph of the same name, shall hereafter belong of right to the French, and the most Christian King shall have all manner of liberty to fortify any place or places there.

XIV. It is expressly provided that in all the said places and colonies to be yielded and restored by the Most Christian King, in pursuance of this treaty, the subjects of the said King may have liberty to remove themselves within a year to any other place as they shall think fit, together with all their moveable effects. But these who are willing to remain there, and to be subjects to the Kingdom of Great Britain, are to enjoy the free exercise of their religion according to the usage of the Church of Rome, as far as the laws of Great Britain do allow the same.

XV. The subjects of France inhabiting Canada, and others, shall hereafter give no hindrance or molestation to the five nations or cantons of Indians subject to the dominion of Great Britain, nor to the other natives of America who are friends to the same. In like manner the subjects of Great Britain shall behave themselves peaceably towards the Americans who are subjects or friends to France; and on both sides they shall enjoy full liberty of going and coming on account of trade. As also the natives of those countries shall with the same liberty, resort, as they please, to the British and French Colonies, for promoting trade on one side and the other, without any molestation or hindrance, either on the part of the British subjects or of the French. But it is to be exactly and distinctly settled by Commissaries, who are, and who ought to be, accounted the subjects and friends of Britain or of France.

THE TREATY OF AIX LA CHAPELLE, 1748.

*(From the Copy published by Authority in 1749.)*

Art. V. All the conquests that have been made since the commencement of the present war, or which, since the conclusion of the preliminary articles, signed the 30th April last, may have been or shall be made, either in Europe, or the East and West Indies, or in any part of the world whatsoever, being to be restored without exception, in conformity to what was stipulated by the said preliminary articles, and by the declarations since signed, the high contracting parties engage to give orders immediately for proceeding to the restitution, as well as to the putting the Most Serene Infant Don Philip in possession of the States, which are to be yielded to him by virtue of the said preliminaries, the said parties solemnly renouncing, as well for themselves as their heirs and successors, all rights



and claims, by what title or pretence soever, to all the states, countries, and places that they respectively engage to restore or yield ; saving, however, the reversion stipulated of the States yielded to the Most Serene Infant Don Philip.

#### THE TREATY OF 1763.

The definitive Treaty of Friendship and Peace between his Britannic Majesty, the most Christian King, and the King of Spain, concluded at Paris the 10th day of Feb., 1763. To which the King of Portugal acceded on the same day.

Art. II. The Treaties of Westphalia of 1648 ; those of Madrid between the Crowns of Great Britain and Spain of 1667 and 1670 ; the Treaties of Peace of Nimeguen of 1678 and 1679 ; of Ryswick of 1697 ; those of Peace and Commerce of Utrecht of 1713 ; that of Baden 1714 ; the Treaty of the Triple Alliance of the Hague of 1717 ; that of the Quadruple Alliance of London of 1718 ; the Treaty of Peace of Vienna of 1738 ; the definitive Treaty of Aix La Chapelle of 1748 ; and that of Madrid, between the Crowns of Great Britain and Spain of 1750 ; as well as the Treaties between the Crowns of Spain and Portugal of the 13th of February, 1668 ; of the 6th of February, 1715 ; and on the 12th of February, 1761 ; and that of the 11th of April, 1713, between France and Portugal, with the Guarantees of Great Britain, serve as a basis and foundation to the peace and the present Treaty ; and for this purpose, they are all renewed and confirmed in the best form, as well as all the Treaties in general, which subsisted between the high contracting parties before the war, as if they were inserted here word for word, so that they are to be exactly observed for the future, in their whole tenor, and religiously executed on all sides, in all their points, which shall not be derogated from by the present Treaty, notwithstanding all that may have been stipulated to the contrary by any of the high contracting parties : and all the said parties declare, that they will not suffer any privilege, favour or indulgence, to subsist, contrary to the Treaties above confirmed, except what shall have been agreed and stipulated by the present Treaty.

Art. IV. —His most Christian Majesty renounces all pretensions which he has heretofore formed, or might form, to Nova Scotia or Acadia in all its parts, and guarantees the whole of it, with all its dependencies to the King of Great Britain ; moreover, his most Christian Majesty cedes and guarantees to his said Britannic Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton, and all the other islands and coasts in the Gulf and River St. Lawrence, and in general, everything that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession and all rights, acquired by treaty or otherwise, which the most Christian King and the Crown of France have had till now over the said countries, islands, lands, places, coasts and their inhabitants, so that the most Christian King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample form without restriction, and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possessions above mentioned.

Art. VII. In order to re-establish peace on solid and durable foundations, and to remove forever all subject of dispute with regard to the limits of the British and French territories on the Continent of America, it is agreed, that, for the future, the confines between the dominions of his Britannic Majesty and those of his Most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the river Mississippi, from its source to the river Iberville, and from thence by a line drawn along the middle of this river and the lakes Maurepas and Pontchartrain, to the sea ; and for this purpose the Most Christian King cedes in full right, and guarantees to His Britannic Majesty the river and port of the Mobile, and everything which he possesses, or ought to possess, on the left side of the Mississippi, except the town of New Orleans, and the Island in which it is situated, which shall remain to France ; provided, that the navigation of the Mississippi shall be equally free as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is between the said Island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth.

PROCLAMATION OF OCTOBER, 1763. (Extracts.)

GEORGE R.

Whereas we have taken into our Royal consideration the extensive and valuable acquisitions in America, secured to our Crown by the late definitive Treaty of peace, concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdoms as of our colonies in America, may avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation, we have thought fit, with the advice of our Privy Council, to issue this our royal proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said Privy Council, granted our Letters Patent, under our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said Treaty, four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz.:

First.—The government of Quebec, bounded on the Labrador coast by the River St. John, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissim; from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45 degrees of north latitude, passes along the high lands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea; and also along the north coast of the Bayes des Chaleurs and the coast of the Gulph of St. Lawrence to Cape Rosieres; and from thence, crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John.

Secondly, the government of East Florida, bounded, &c.

Thirdly, the government of West Florida, bounded, &c.

Fourthly, the government of Grenada, comprehending, &c.

And to the end that the open and free fishery of our subjects may be extended to and carried on upon the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our said Privy Council, to put all that coast, from the River St. Johns to Hudson's Straits, together with the Islands of Anticosti and Madelane, and all other smaller islands lying upon the said coast, under the care and inspection of our Governor of Newfoundland.

We have also, with the advice of our Privy Council, thought fit to annex the Islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to our Government of Nova Scotia.

\* \* \* \* \*

And whereas it will greatly contribute to the speedy settling our said new Governments, that our loving subjects should be informed of our paternal care for the security of the liberty and properties of those who are, and shall become, the inhabitants thereof; we have thought fit to publish and declare, by this, our Proclamation, that we have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express power and direction to our Governors of our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our Council, summon and call General Assemblies within the said Governments respectively, in such manner and form as is used and directed in those Colonies and Provinces in America, which are under our immediate government; and we have also given power to the said Governors, with the consent of our said Council and the representatives of the people, so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and government of our said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies; and in the meantime, and until such Assemblies can be called as aforesaid, all persons inhabiting in, or resorting to, our said colonies, may confide in our Royal protection for the enjoyment of the benefit of the laws of our realm of England: for which purpose we have given power under our Great Seal to the Governors of our said colonies respectively, to



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erect and constitute, with the advice of our said Councils respectively, Courts of Judicature and Public justice within our said colonies, for the hearing and determining all causes as well criminal as civil, according to law and equity, and as near as may be agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such Courts in all civil cases, to appeal, under the usual limitations and restrictions, to us, in our Privy Council.

\* \* \* \* \*

And we do further declare it to be our Royal will and pleasure for the present, as aforesaid, to receive under our Sovereignty, protection, and dominion for the use of the said Indians, all the land and territories not included within the limits of our said three new Governments, or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north-west as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and licence, for that purpose first obtained.

\* \* \* \* \*

Given at our Court of St. James, the 7th day of October, 1763, in the third year of our reign.

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## RIGHTS DERIVED FROM DISCOVERY.

*M de Calliers\* to M de Seignelay.* (This memoir is without date, but it appears to have been written in 1687.)

"The third pretension of the English is to drive the French from Hudson's Bay, the whole of which country they claim as their property. And, in consequence of this pretension, they dispatched some vessels last year to that Bay, which carried off several Frenchmen, whom a Company, formed at Quebec, settled at a place called the River Bourbon, and conveyed them to London, with the beaver and other peltries belonging to the said French Company, amounting to the value of nearly two hundred thousand livres.

"As regards Hudson's Bay, the French settled there in 1656, by virtue of an *arrêt* of the Sovereign Council of Quebec, authorizing *Sieur Bourdon*, its Attorney-General, to make the discovery thereof, who went north to the said Bay, and took possession thereof in His Majesty's name.

"In 1661, *Father Dablon*, a Jesuit, was ordered by *Sieur d'Argenson*, at the time Governor of Canada, to proceed to said country. He went thither accordingly, and the Indians, who then came from thence to Quebec, declared they had never seen any European there.

"In 1663, *Sieur d'Avaugour*, Governor of Canada, sent *Sieur Couture*, Seneshal of the Côte de Beaupré, to the north of the said Hudson's Bay, in company with a number of Indians of that country, with whom he went to take possession thereof, and he set up the King's arms there.

"In the year 1663, *Sieur Duquet*, King's Attorney to the *Prévôté* of Quebec, and *Jean l'Anglois*, a Canadian colonist, went thither again by order of the said *Sieur d'Argenson*, and renewed the act of taking possession by setting up His Majesty's arms there a second time. This is proved by the *arrêt* of the said Sovereign Council of Quebec, and by orders in writing of said *Siieurs d'Argenson* and *d'Avaugour*.

"The English allege that the north coast of Hudson's Bay, where the French established themselves, has been discovered by *Chevalier Button*, an Englishman, as early as 1621.† But we answer that he made no record there of taking possession, and that they did not have any settlement there before the year 1667, when the Frenchmen named *des Grozelliens* and *Raddisson* conducted the English thither to a place they called *Nelson's River*; and in 1676 the said *des Grozelliens* and *Raddisson*, having returned from England, and having obtained pardon for their defection, a company was formed at Quebec who sent them to Hudson's Bay, where they founded a settlement north of the said Bay on the River Bourbon, which is the one the English seized last year, in consequence of a new treachery on the part of said *Raddisson*, who re-entered their service and conducted them thither. Meanwhile, the company formed at Quebec sent two ships to the said Bay last year, under the impression that they would find their people, with a quantity of peltries, at the settlement on the River Bourbon, of right belonging to them, where the company is in a condition to maintain itself if protected by His Majesty."

## SHOULD THE OBJECT OF VOYAGES BE TAKEN INTO ACCOUNT ?

On doit distinguer les navigations qui ont été dirigées vers le continent de l'Amerique Septentrionale, sous dessein d'y faire des plantations et d'y établir des colonies, d'avec celles qui n'ont été entreprises dans cette vue; et parmi ces dernières, celles qui se sont bornées à de simple tentatives infructueuses, d'avec celles qui ont été suivies d'établissements solides, actuellement subsistants, ou qui subsisteroient, si quelque puissance Européenne ne les avoit détruits. *Mémoire des Commissaires François, du 4me Octobre, 1751, en*

\* A veteran who had served twenty years in the French armies.

† This should be 1612; that being the year of *Button's* discovery.



*réponse aux Mémoires des Commissaires de sa Majesté Britannique, des 21 Sept. 1750 et 11 Janvier, 1751.\**

In opposition to the views urged in this extract is the

*Memorial presented by His Majesty's Commissaires to the Commissaires of His Most Christian Majesty, in reply to their Memorial of the 4th October, 1751, concerning Nova Scotia or Acadia :—*

“The French Commissaires, in the two first articles of their Memorial, have given an historical summary account of the first voyages made by the English and French for the discovery and settlement of North America, to which, and to the arguments drawn from it, it would be sufficient to answer in general, that the question now in discussion is not which nation has the right to Acadia or Nova Scotia, but what were the ancient limits of that country ; that several treaties between the two Crowns have long since interposed to determine upon, and indeed annul, any claim from the earliest discovery or settlement, and that very little information can be reasonably expected for deciding what were the ancient boundaries of this country from the proceedings of those who first discovered it, or the relations of their voyages, it being well known how indistinctly first discoveries of all countries have been made (every pilot or admiral taking possession of a vast tract of a country he never saw, upon the pretence of having landed in a part of it), and in how very imperfect and suspicious a manner the relations of those voyages have come down to us.” [To correct the mistakes and show that they do not acquiesce in the claim of precedency set up by the French Commissaires, the English Commissioners consent to enter into this matter, and for this purpose only.] “To enter more minutely,” they say, “than this into the examination of the history contained in these articles, would be to depart from the proper subject before us, to assist in a certain degree towards changing the real object of the present enquiry, and in part to rest the decision of it upon insufficient evidence and improper enquiry.

“As to the distinction, in such national discussions, of rights founded upon earliest discovery, was there ever any further enquiry made than which was the earliest discovery ? and, such discovery once proved, was it ever afterwards examined whether it was made accidentally in the course of another undertaking, or whether the ships were originally destined for that particular design, or if the single object of the voyage was the settling a plantation on that particular coast ? Surely this way of reasoning is entirely new, nor has any nation ever yet suffered a title founded upon earliest discovery to be arraigned upon such a subtle but groundless distinction. As to the particulars brought in support of it, such of them as would be of any weight if they were true, are mistakes, and such as are true signify nothing. It would be some argument to shew this voyage was the adventure of Cabot, not made on the part of Henry VII., if all the ships which sailed under Cabot's command had been defrayed at his expense, and been his property ; but it appears from the best authority, that, besides the ships he bought by the King's permission, several others accompanied him, fitted out by private merchants, subjects of Great Britain, who became parties to the undertaking. It would also be a circumstance very favourable to the interpretation the French Commissaires put upon this voyage, if Henry VII. had not in his Letters Patent inserted a word by which he reserves to himself and to his crown, dominion and royalty in all the lands which shall be discovered or settled by Cabot ; but it is expressly there said, that Cabot and his heirs shall hold all such lands as he shall discover and settle, as vassals of the Crown, though the immediate profit of the voyage, and various exemptions in holding what lands shall be discovered, are granted to Cabot and his heirs as rewards for their industry, and a recompense for their expense. These two objections, therefore, which if they were well grounded would have some weight, are founded upon circumstances which are not true.

\* A distinction ought to be made between the voyages that have been directed towards the continent of North America, with the design of making plantations and establishing colonies, and those which have not been undertaken with this view ; and among the latter, those which were confined to simple attempts which proved unproductive, with those which have been followed by the formation of solid establishments, actually existing, or which would have subsisted if some European power had not destroyed them.—*Memoir of the French Commissioners, Oct. 4, 1751, in reply to the Memoirs of the Commissioners of His Britannic Majesty of the 21st Sept. 1750 and the 11th January, 1751.*

## ALLEGED DISCOVERY OF HUDSON'S BAY BY THE DANES.

"Les Danois prétendent que cette Baye étoit déjà découverte par un homme de leur nation, et qu'on la nomma *Christiania* du nom de Christian IV., Roi de Dannemarc. Ils dissent que les Danois ayant passé le Détroit, continuant toujours vers le nord, abordèrent enfin la terre ferme à une rivière qu'on a nommée la *Rivière Danoise*, et que les Sauvages appellent *Monoteousiki*, qui signifie *Rivière des Etrangers*. . . . Qu'ils perirent tous durant cet hiver."\*—*Introduction à l'Histoire de l'Asie, de l'Afrique et de l'Amerique. Par M. Bruzen La Martinière. T. II., pp. 409-10.*

*Memoir of the King, to serve as instructions to Sieur Talon, proceeding to N. France as Intendant of Justice, Police and Finance, March 27, 1665.*

The Marquis de Denonville, Feb. 12, 1668, appointed le Sieur de Trois (*sic*) to go in search of the most advantageous posts and occupy the shores of the Baie du Nord and the embouchures of the rivers that enter therein, "retrancher et fortifier les dits postes, de saisir les robeurs, coureurs des bois et autres que nous savons avoir pris et arrêté plusieurs de nos Français commerçants avec les sauvages, lesquels nous lui ordonnons d'arrêter, nommément le dit Radisson et autres ses adherents, en quelque lieu qu'il les puisse joindre ; lesquels il nous amènera comme déserteurs pour être punis suivant la rigueur des ordonnances."†

*Memoir by M. Talon to M. Colbert, Quebec, Nov. 10, 1670.*

"I learn by the return of the Algonquins, who will winter this year near Tadoussac, that two European vessels have been seen very near Hudson's Bay, where they wigwam (*cabanet*), as the Indians express it. After reflecting on all the nations that might have penetrated as far north as that, I can only light on the English, who, under the guidance of a man named Des Grozeliars, formerly an inhabitant of Canada, might possibly have attempted that navigation, of itself not much known—and not less dangerous. I intend despatching thither, overland, some man of resolution to invite the Kilistions, who are in great numbers in the vicinity of the Bay, to come down to see us, as the Ottawas do, in order that we may have the first pick of what the latter savages bring us, who, acting as pedlars between these two nations and us, make us pay a roundabout of three or four prices."

M. TALON TO THE KING.—MEMOIR ON THE STATE OF CANADA.

*Quebec, Nov. 2, 1671.*

"Three months ago I despatched with Father Albonel, a Jesuit, Sieur de St. Simon, a young Canadian gentleman recently honoured by His Majesty with that title. They were to penetrate as far as Hudson's Bay, draw up a memoir of all they will discover, drive a trade in furs with the Indians, and especially reconnoitre whether there will be any means of wintering ships in that quarter, in order to establish a factory that might, when necessary, supply provisions to the vessels that will possibly hereafter discover by

\* The Danes pretend that this Bay had already been discovered by one of their nation, to whom the name of *Christiania*, after Christian IV., King of Denmark, was given. They say that the Danes having passed the strait, continued their voyage towards the north, and finally reached the mainland at the mouth of the river, which they called the Danish river, and which the Indians called *Monoteousiki*, which signifies the strangers' river. . . . They all perished during the winter.—*Introduction à l'Histoire de l'Asie, de l'Afrique et de l'Amerique. Par M. Bruzen La Martinière. T. II., pp. 409-10.*

† The Marquis de Denonville, Feb. 12, 1668, appointed le Sieur de Trois (*sic*) to go in search of the most advantageous posts, and occupy the shores of the Baie du Nord and the embouchures of the rivers that enter therein, to entrench and fortify the said posts, to seize the robbers, coureurs des bois and others whom we know to have taken and arrested several of our French engaged in the Indian trade, whom we order him to arrest, especially the said Radisson and his adherents, wherever they may be found, and bring them to be punished as deserters, according to the rigour of the ordinances.



that channel, the communication between the two seas—the north and the south. Since their departure I have received letters from them three times. The last, brought from one hundred leagues from here, informs me that the Indians whom they met on the way have assured them that two English vessels and three barks have wintered in the neighbourhood of the Bay, and made a vast collection of beavers there. If my letters, in reply, are safely delivered to the said Father, this establishment will be thoroughly examined, and His Majesty will have full information about it. As all these countries were long ago (*anciennement*) originally discovered by the French, I have commissioned the said Sieur de St. Simon to take renewed possession in His Majesty's name, with orders to set up the escutcheon of France, with which he is entrusted, and to draw up a *procès verbal*, in the form I have furnished him.

"It is proposed to me to despatch a bark of sixty tons hence to Hudson's Bay, whereby it is expected that something will be discovered of the communication between the two seas. If the adventurers who form this design subject the King to no expense, I shall give them hopes of some mark of honour if they succeed, besides indemnifying themselves from the fur trade which they will carry on with the Indians."

#### JOLLIET'S VOYAGE TO HUDSON'S BAY.

*Count de Frontenac, 6th, 8th and 9th Nov., 1679.*

"[I] send the narrative and map of the voyage Sieur Jolliet has made to Hudson's Bay, which the farmers of the revenue have demanded of him. The relation is dated 27th of October, 1679, and signed Jolliet."

#### RADISSON'S VOYAGE TO HUDSON'S BAY.

*M. de Frontenac, 2nd Nov., 1681.*

"Sieur Radisson, who is married in England, had returned to Canada from the Islands, where he had served under Marshal D'Estrées. He had applied to him for permission to go in a vessel belonging to Sieur de la Chesnay, to form establishments along the coasts leading towards Hudson's Bay."

*Du Chesneau's Memoir on the Western Indians,  
13th November, 1681.*

"They (the English) are still at Hudson's Bay, on the north, and do great damage to our fur trade. The farmers (of the revenue) suffer in consequence by the diminution of the trade at Tadoussac, and throughout that entire country, because the English draw off the Ottawa nations; for the one and the other design, they have two forts on the said Bay—the one towards Tadoussac, and the other at Cape Henriette Marie, on the side of the Assinibonetz.

"The sole means to prevent them succeeding in what is prejudicial to us in this regard, would be to drive them by main force from that Bay, which belongs to us; or if there would be an objection to coming to that extremity, to construct forts on the rivers falling into the lakes, in order to stop the Indians at these points.

"Should the King adopt the resolution to arrange with the Duke of York for his possessions in this quarter, in which case Boston could not resist, the only fear would be that this country might go to ruin, the French being naturally inconstant and fond of novelty.

"But as this could be remedied by rigorous prohibitions, that consideration ought not to prevail over the great benefit which would accrue, and the great advantages His Majesty and his subjects must eventually derive from the transaction."

*From Du Chesneau, Nov. 13, 1681.*

"The Ambassador of the King of England, at Paris, complained that the man named Radisson and other Frenchmen having gone with two barks, called *Le St. Pierre* and *La*

*Ste. Anne*, into the river and port of Nelson, in 1682, seized a fort and some property of which the English had been in possession for several years.

"Radisson and De Grozelliens maintain that these allegations are not true ; but that having found a spot on the River Nelson adapted to their trade, they took possession of it in the King's name, in the month of August, 1682, and had commenced building a fort and some houses there.

"That on the 14th September following, having heard cannon, they went out to examine, and on the 26th found some beginning of houses on an Island, and a vessel aground near the coast.

"That these houses had been begun since they entered the river and had set about working at their fort and building, and, therefore, that they were the first occupants.

"That, since then, each having wished to maintain his establishment, the French were become the masters.

"That the ice and weather having caused the destruction of an English ship, some men belonging to it had died ; but that they had, on their part, treated them with great moderation and kindness, and rendered every assistance to the English, who appeared satisfied."

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#### MOVEMENTS OF THE ENGLISH IN THE NORTH.

*From M. de la Barre. Quebec, Nov. 12, 1682.*

"As to what relates to Hudson's Bay, the company in old England advanced some small houses along a river which leads from Lake Superior. As possession was taken of this country several years ago, he will put an end to this disorder, and report next year the success of his design."

#### LOUIS XIV. TO M. DE LA BARRE.

*Fontainebleau, 5th Aug., 1683.*

"I recommend you to prevent the English, as much as possible, from establishing themselves in Hudson's Bay, possession whereof was taken in my name several years ago; and as Col. d'Unguent (Dongan), appointed governor of New York by the King of England, has had precise orders on the part of the said King to maintain good correspondence with us, and carefully avoid whatever may interrupt it, I doubt not the difficulties you have experienced on the side of the English will cease for the future."

#### M. DE LA BARRE TO M. SEIGNELAY.

*Quebec, Nov., 1683.*

"The English of Hudson's Bay have this year attracted many of our northern Indians, who for this reason have not come to trade to Montreal. When they learned by expresses sent to them by Du l'Hut, on his arrival at Missilimakinak, that he was coming, they sent him word to come quickly, and they would unite with him to prevent all the others going thither any more. If I stop that pass, as I hope, and as it is necessary to do, as the English of that Bay excite against us the savages, whom Sieur du l'Hut alone can quiet, I shall enter into arrangements with those of New York for the surrender to me of any guilty fugitives. They appeared well satisfied with me, but were desirous to obtain an order to that effect from the Duke of York. I judge from the state of European affairs that it is important to manage that nation, and I shall assiduously apply myself thereto."



M. DE LA BARRE TO M. DE SEIGNELAY.

*Quebec, Nov. 4, 1683.*

"A small vessel has just arrived from Hudson's Gulf, two hundred leagues further north than the Bay. She brings back those who were sent there last year by order of Count de Frontenac. You will receive herewith an exact map of the place. But divers little recontres have occurred between our Frenchmen and the English, of which I send you a particular narration, in order, should any complaint be made to the King of England, and he speak of it to M. Barillon, the latter may be able to inform him of the truth. It is proper that you let me know early whether the King desires to retain that post, so that it may be done on the withdrawal of the French ; for which purpose I shall dispose matters in order to aid them overland beyond Lake Superior, through Sieur du l'Hut, and to send them by sea to bring back the merchandize and peltries."

LE SIEUR DE LA BARRE TO THE KING.

*Quebec, Nov. 13, 1684.*

"It remains for me to request your Majesty's orders in regard to the English, as well those of New York as those settled on Hudson's Bay. I fear they have attacked the French posts last year in Nelson's Gulf, and that Ratisson (Radisson), who I learn is at their head, has opposed force and violence to the justice of their cause, of which your Majesty shall be informed. Whether I must oppose force to force, and venture by land against those who might have committed some outrages against your subjects at sea, is a matter on which your Majesty will please furnish me with some precise and decisive orders, whereunto I shall conform my conduct and actions."

MY LORD TO M. DE LA BARRE.

*April 10, 1684.*

"It is impossible to imagine what you pretended when, of your own authority, without calling on the Intendant and submitting the matter to the Sovereign Council, you ordered a vessel to be returned to one Guillam, which had been captured by Radisson and De Groszeliers, and in truth you ought to prevent these sorts of proceedings, which are entirely unwarranted, coming under His Majesty's eyes. You have herein done what the English will be able to make a handle of, since in virtue of your ordinance you caused a vessel to be surrendered which ought strictly to be considered a pirate, as it had no commission ; and the English will not fail to say that you so fully recognized the regularity of this ship's papers that you surrendered it to the proprietors, and they will thence pretend to conclude that they had taken legitimate possession of the River Nelson before Messrs. Radisson and De Groszeliers had been there, which will be very prejudicial to the colony."

M. DENONVILLE TO M. D. SEIGNELAY.

*Ville Marie, August 25, 1687.*

"Du l'Hut's brother, who has recently arrived from the rivers above the lake of the Allenemipigons (now Lake Ste. Anne, north of Lake Superior), assures me that he saw more than 1,500 persons come to trade with him. They were very sorry that he had not sufficient goods to satisfy them. They are of the tribes accustomed to resort to the English at Port Nelson or River Bourbon, where they say they did not go this year, through Sieur du l'Hut's influence. It remains to be seen whether they speak the truth.

"The overland route to them is frightful, on account of its length and of the difficulty of finding food. He says there is a multitude of people beyond these, and that no trade is to be expected with them except by sea, for by the rivers the expense is too great.

"I have just received news from our forts at the head of Hudson's Bay (*du nord*), where d'Yberville is in command. He has had advices this fall that an English ship was in the nip near Charleton Island. He sent four men thither across the ice to reconnoitre. One gave up through sickness; the others were surprised and taken and bound. One of the latter escaped, though fired at several times—he communicated the news—and the other two were put, bound, into the bottom of the hold, where they passed the winter. The commander of the vessel, hunting on the Island in the spring, was drowned. The time being arrived for setting sail, the pilot and the others, to the number of six, caused the weaker of the Canadians to work, and obliged him to assist them. One day, whilst most of the English were aloft, the Canadian, seeing only two on deck, grasped an axe with which he split both their skulls, then ran to release his comrade; they seized the arms and went on deck, where from being slaves they became masters. They next steered the ship towards our fort, and met *Sieur d'Yberville* on the way, who had fitted out a vessel to go and release his men at the moment the ice would permit him. The English ship was laden with merchandize and provisions, which have been of great service to our forts."

## MEMOIR OF M. DENONVILLE ON THE STATE OF CANADA.

Nov. 12, 1685.

"In regard to Hudson's Bay (*du nord*), should the King not think proper to enforce the reasons His Majesty has for opposing the usurpation of the English on his lands, by the just titles proving His Majesty's possession of it long before the English had any knowledge of said country, nothing is to be done but to find the means to support the company of said Bay, formed in Canada by the privilege His Majesty has been pleased this year to grant his subjects of New France, and to furnish them, for some years, a few vessels of one hundred and twenty tons only, well armed and equipped. I hope, with this aid, our Canadians will support this affair, which will otherwise perish of itself, whilst the English merchants, more powerful than our Canadians, will with good ships continue their trade, whereby they will enrich themselves at the expense of the colony and of the King's revenue."

## CAPITULATION OF ALBANY FORT.

*Articles agreed upon between the Chevalier de Troyes, Commander in Chief of the detachment of the North West, for the French Company of Canada, and Henry Sergeant, Esq., Governor, for the English Company of Hudson's Bay, July 16, 1686.*

It is agreed upon to deliver up the Fort, together with all the goods belonging to the said Company, which are to be scheduled for the mutual clearing of us, the forenamed, and satisfaction of all parties.

II. That all the Company's servants at Albany River shall enjoy all wearing apparel belonging to themselves.

III. That the aforesaid Henry Sergeant, Esq., Governor, shall enjoy and possess all that belongs to himself; and that his minister, his three men servants and maid servant shall constantly be permitted to remain with him and attend him.

IV. That the Chevalier de Troyes shall convey all the Company's servants to Charleton Island, there to expect English ships for their transportation; and if English ships should not arrive, then the aforesaid Chevalier de Troyes is to assist them with what vessels the country affords, for their conveyance into England.

V. That the said Chevalier de Troyes shall deliver to the said Henry Sergeant, Esq., Governor, or to his storehouse keeper, such provisions as shall be thought fitting and necessary to carry them to England, if no ships come from thence, and in the meantime give them such sustenance as shall be sufficient for them.

VI. That all the storehouses shall be locked up, and the keys delivered to the said Chevalier de Troyes, Lieutenant, that nothing may be in the said storehouses embezzled, till the account be taken, according to the first article.



Lastly. That the Governor and all the Company's servants at Albany River shall come out of the Fort and deliver it up to the said Chevalier de Troyes, all the men, the Governor and his son excepted, being without arms, which is to be forthwith.

*Denonville, 10th October, 1686.*

"Nous avons éprouvé que par les Temiskamins et Abitabis c'est un chemin terrible et de si grandes difficultés que tout ce que l'on saurait faire est d'y porter suffisamment de vivres pour aller et revenir. L'on croit celui de Nemisco par Tadoussac plus traitable ; mais en vérité il est aussi fort long et très pénible, outre que la navigation des rivières est si difficile que l'on n'y saurait passer que par dessous des arbres couchés de travers sur la rivière, qui est étroite ; mais cela se peut accommoder avec le tems. Voila, Monseigneur, les deux seuls chemins pour le fond de la Baie.

"On compte 250 lieues de poste de Quichichouanne au port de Nelson. Ce chemin n'est pas encore bien connu à nos François par les terres ; l'an prochain ne se passera pas qu'on ne le connaisse ; il n'est pas praticable pour y porter des marchandises.\*

*Marquis De Denonville, 13th October, and 16th November, 1686.*

"Affairs are becoming more and more embroiled, and the English who urge on the Iroquois are but too well aware of their evil design.

"The French coureurs des bois, with 100 men, took from them three forts they were occupying in Hudson's Bay. \* \*

"The convention concluded with England, that the River Bourbon or Port Nelson shall remain in joint occupation of the two crowns, is not advantageous to the French, for the voyages of the English are too dangerous on account of their attacking the coureurs des bois as much as possible, besides purchasing the beaver at a higher rate, and furnishing their goods cheaper than the French. In his opinion, it would be more beneficial for the company and colony that the French merchants restore the posts at the head of the Bay, which they took, and that the French should have Port Nelson on River Bourbon. If this arrangement were feasible, the Indians could be thus intercepted by land, for it would be useless to attempt to become masters of the upper parts of the Rivers Bourbon and Ste. Thérèse, inasmuch as it would be impossible to prevent the Indians trading with the English.

"The latter could, by this means, be intercepted by land, and we should have an opportunity of discovering an infinitude of nations yet unknown, through whom a great many peltries can yet be procured, and possibly, the passage and entrance to the Pacific Ocean eventually discovered."

M. DE DENONVILLE TO M. DE SEIGNELAY.

*February 15, 1690.*

"Our affairs at Hudson's Bay will prosper if the Northern Company continue to cooperate with, and second the designs of D'Iberville, one of the sons of the late Le Moyne, whom I left resolved to go to Port Nelson, the only remaining port in the pos-

\* Denonville, October 10, 1686.

We have experienced that, by the Temiskamins and Abitabis, the road is terrible, and that all that could be done would be to carry a sufficient supply of provisions for the round trip. It is believed that that of Nemisbo by Tadoussac is better ; but in truth it is long and painful enough : besides the navigation of the rivers is so difficult, that it is only possible to pass underneath the trees that lie across the narrow river ; but that may be overcome in time. These, Monseigneur, are the only two roads that lead to James' Bay (les deux seuls chemins pour le fond de la Baie).

It is reckoned 250 leagues from the post of Quichichouanne to Port Nelson. The overland road is not yet well known to our French ; the next year will not pass without their becoming acquainted with it ; it is not practicable to carry merchandize there.

session of the English. For that purpose it is absolutely necessary, I believe, that my Lord the Marquis de Seignelay inform Monsieur de Lagny that the King intends that the Northern Company undertake the capture of that post, and furnish said Iberville with everything he requires to render his design successful. He will want two ships. He has already, at Quebec, one that he took this winter from the English. In truth, my Lord, it would be very advantageous to the King's service had said Iberville some honourable rank in the navy, in order to excite emulation in the Canadians who will follow the sea. A commission of lieutenant would work miracles. He is a very fine fellow, and very capable of rendering himself expert, and doing good service.

"The Iroquois war continuing, as there is every appearance it will, both against us and the Indians, in the direction of the Outawas who traffic with us, the greatest part of the trade will be diverted towards Port Nelson, on the River Bourbon. What I have learned of the facilities possessed by the Indians beyond Lake Superior to reach the sea in that direction, very strongly convinces me of the necessity we are under to bethink ourselves of driving the English from that commerce. But it must be effected without fail, for they will get up this year some expeditions against us.

"The Northern Company require that my Lord should order M. de Champigny to attend their meetings sometimes, when he considers it necessary. I fear some divisions are creeping in there which will bring about its failure. There is no fear that the presence of an Intendant like M. de Champigny can be productive of any harm."

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FORT NELSON.—LETTRE DE MESSIEURS DE FRONTENAC ET DE CHAMPIGNY,

*On the subject of attacking Fort Nelson, August 7, 1693.*

"Sa Majesté ayant fait savoir par sa dépêche du 28 Mars dernier que son intention était que nous fissions partir sans retardement le Sieur Iberville, avec ses vaisseaux *Le Poli*, *l'Intendant*, et celui de la Compagnie du Nord, afin d'aller dans la Baie d'Hudson y faire l'attaque de Fort Nelson, suivant le mémoire particulier que sa Majesté nous a encore à cet effet envoyé et l'instruction dudit Sr. d'Iberville, Capitaine dudit vaisseau, *le Poli*, nous avons pour l'exécution desdits ordres conféré avec Monsieur de Champigny, Intendant en ce pays, et avons mandé le 26 Juillet ledit Sr. d'Iberville chargé de ladite expedition dudit Fort de Nelson, et les Sieurs intéressés en la Baie du Nord."\*

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MEMOIRE DE LA COMPAGNIE DU NORD.

15 Nov. 1690.

La Compagnie du Commerce du Nord établie à Quebec, avec permission et patente de S. M., a eu le malheur, après avoir pris possession, audit pays du Nord, de la riche et grande rivière de Bourbon en 1682, d'avoir été pillée en terre en 1683, par les Anglois pendant le retour de leur vaisseau à Quebec, qui leur prirent un magasin rempli de plus de 200,000 livres de castor, martre, et autres pelleteries dans le temps qu'il n'y avait point de guerre entre les deux nations, ayant corrompu deux ou trois François gardiens desdites pelleteries en magasin.

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\* *Fort Nelson—Letter of Messrs. de Frontenac and Champigny on the subject of attacking Fort Nelson, Aug. 7, 1693.*

His Majesty having made known to us by his despatch of the 28th March last, that it was his intention that we should cause Sieur Iberville to set out without delay, with his vessels, the *Poli*, the *Intendant*, and that of the Compagnie du nord, in order to go to Hudson's Bay, according to the private memoir which His Majesty has sent us to this effect, and the instruction of the said Iberville, captain of the *Poli*, we have conferred with Monsieur de Champigny, Intendant of the country, on the execution of the said orders, and on the 26th of July ordered the said Sieur d'Iberville, charged with the said expedition to the said Fort Nelson, and the gentlemen interested in Hudson's Bay (la Baie du Nord), to set out on that expedition.



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Ce fut durant ce temps que S. M. accorrdra au Roi d'Angleterre, que les limites des terres seroient réglées par MM. les Commissaires qui furent nommés de la part des deux Royaumes ; cependant défend aux sujets de faire aucun acte d'hostilité à quoi lesdits Anglais refusant d'obéir de leur part, seraient venus sur la fin de l'année 1688, au fond de la Baie du Nord, occupée par les François, hiverner avec trois navires et environ cent hommes d'équipage, auroient bati un Fort au Nord de celui desdits François. [The company asked the assistance of the French Government in the emergency.]

(Signed)

GOBIN PACHOT.

CHARLES ALBERT DE LA CHENE.\*

A letter to Monseigneur Ponchartrain, " adressée par les membres de la Compagnie du Nord du Canada " (without date, but which was probably written in 1693), says :—

" L'entreprise du Port Nelson n'a pu se faire en 1691, parceque défunt Monsieur du Tas, arrivé à Quebec le premier jour de Juillet, auquel vous aviez ordonné ce voyage, soutient ici qu'il était trop tard de partir pour le Nord.

" Votre Grandeur, en 1692, a donné au Sr. d'Iberville, Capitaine de Vaisseau de sa Majesté *Le Poli*, ses ordres pour ledit voyage, et la conduite de la flotte du commerce de ce pays, qui n'est arrivé que le 18 Août, dans laquelle saison il a été absolument impossible de penser à cette entreprise.

" Pourquoi, Monseigneur, ce seul poste qui reste aux Anglois étant si utile qu'il faut tout gagner ou tout perdre aux Français dans le grande Baie du Nord la Compagnie établie à Quebec pour ce commerce réclame tout de nouveau la protection de Votre Grandeur, afin que vous lui accordiez des forces suffisantes pour se rendre maîtres dudit Port Nelson que les Anglais ont pris par trahison sur ladite compagnie même en tems de paix, ce que l'on espère, Monseigneur, de la passion que vous avez pour l'aggrandissement du Royaume, et de votre affection pour cette colonie.

" Par vos très respectueux et très obéissants serviteurs,

(Signés)

" HARYON,  
THAZEUR,  
PACHOT,  
CHARLES AUBERT,  
DE LA CHESNAYS,

" MIGEON,  
DE BRAUSSAC,  
MACART,  
LE PICART,  
GOBIN."†

\* Memorial of the Company of the North, Nov. 15th, 1690 :

The Commercial Company of the North, established at Quebec, by permission and patent of his Majesty, has had the misfortune, after having taken possession of the north country, and the rich and large river of Bourbon, in 1682, to have been robbed, on land, in 1683, by the English, when their vessel had returned to Quebec, by whom were taken from their magazine more than 200,000 livres of beaver, martin and other peltries, at a time when there was no war between the two nations, and by means of bribing two or three Frenchmen in whose charge the peltries in the magazine were.

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This occurred at the time when His Majesty had agreed with the King of England that the boundaries of their territories should be fixed by Commissioners, to be appointed on the part of the two kingdoms ; they had, however, forbidden their subjects to commit any act of hostility, in which respect the English proved disobedient ; arriving, near the end of the year 1688, at the foot of James' Bay, (au fond de la Baie du Nord) occupied by the French. They wintered there with two vessels and about a hundred men belonging to the ships, and built a fort to the north of that of the French.

[The Company asked the assistance of the French Government in the emergency.]

(Signed)

GOBIN PACHOT.

CHARLES ALBERT DE LA CHENE.

† A letter from the Compagnie du Nord of Canada (without date, probably written in 1693), says :—

" The enterprise of Port Nelson could not be carried out in 1691, because M. du Tas, since dead, arrived at Quebec on the first of July, to whom you had ordered to make this voyage, alleged, when here, that it was too late to set out for the north."

" Your Excellency, in 1692, gave Captain Iberville, of His Majesty's vessel, the *Poli*, his orders for this voyage and the management of the fleet of merchant vessels of this country, who did not arrive till the 18th August, at which season it was absolutely impossible to think of this enterprise.

" Why, Monseigneur, this single Fort, which remains in possession of the English, is of so much importance that the gain or loss of everything in Hudson's Bay depends upon it. The company's establishment at

*La Compagnie du Nord du Canada à Monseigneur de Pontchartrain, 1693.*

La grace que votre Grandeur avait accordée à la compagnie du Nord de Canada, du vaisseau du Roi, *le Poli*, n'ayant pu avoir son effet, le Sieur d'Iberville, Capitaine dudit vaisseau étant arrivé à Quebec seulement le 8 Août, trop tard pour rien entreprendre sur les Anglois.

L'on espère que vous continuerez votre protection, Mgr., en faveur de cette compagnie qui est ruinée et souffre beaucoup par la nécessité de soutenir la guerre contre la compagnie de Londres, qui lui a pris en tems de paix, le Port de Nelson, un des plus considerable postes de ladite grande Baie, avec plus de 400 mille livres d'effets.

Cette compagnie de Londres composée de marchands, seigneurs et milords de la premiere qualité, estime à si haut prix la Baie et son commerce, qu'ayant donné leurs ordres au Commandant du Fort de Neuvesavanne de brûler tous leurs effets si les Français paraissoient, brûlèrent effectivement ledit fort et pour plus de trente mille écus de marchandises à la vue d'un seul navire de la compagnie en 1690, et auquel fort pour prouver cette estime, ils se sont rétablis des l'année suivante, parceque la compagnie de Quebec n'a pas été en état de l'occuper.

On ne peut donc assez vanter cette grande Baie par rapport au grand commerce qui s'y fait déjà, et qui s'y peut etablir sur les bords de la mer, dans la profondeur des terres, et pour les nouvelles découvertes.

La compagnie y tiendrait tout, si elle pouvait se saisir du Port Nelson ; cependant les frais de la guerre soutenue, contre les Anglois l'a beaucoup affaiblie ; ce qui l'oblige de recourir à votre Grandeur, afin d'obtenir des forces suffisantes, et en tems convenable, pour en chasser les Anglois.

Par vos très respectueux et très obéissants serviteurs,

(Signés,)

ROUER DE VILLERAY,  
*pour Messieurs de l'Ancienne Compagnie,*

F. RAZEUR,  
MACART,  
LE PICART,  
PACHOT,  
BENACE,

*pr. MM. Catignon et Duprat,*

GOBIN,  
FAUVEL.\*

Quebec, to carry on this commerce, claims anew the protection of your Excellency, that you may give it a sufficient force to enable it to become master of Fort Nelson, which the English took by an act of treason against this company in a time of peace. This they hope from the strong desire which you have for the aggrandizement of the kingdom and from your affection for this colony.

"By your very respectful and obedient servants,

(Signed)

"HARYON,  
THAZEUR,  
PACHOT,  
CHARLES AUBERT,  
DE LA CHESNAYS,

"MIGEON,  
DE BRAUSSAC,  
MACART,  
LE PICART,  
GOBIN."

\* *The Compagnie du Nord of Canada to Monsieur de Pontchartrain, 1693.*

The favour which your Excellency has granted to the Compagnie du Nord of Canada of the King's vessel, the *Poli*, did not produce the effect intended, owing to Captain Iberville having arrived at Quebec only on the 8th August ; too late to undertake anything against the English.

It is hoped that you will continue your protection, Monseigneur, in favour of this company, which is ruined and suffers greatly from the necessity of carrying on the war against the London company, by whom, in a time of peace, Port Nelson, one of the most considerable on the great Bay, was taken from them, with 400,000 livres of effects.

This London company, composed of merchants and noblemen of the first quality, estimate at so high a price the commerce of the Bay, that they had given orders to the Commander of the Fort to burn all their effects if the French made their appearance. At the sight of a single vessel of the company, in 1690, they effectively burnt the fort and over 30,000 écus worth of merchandize, which fort, to show this esteem, they rebuilt the next year, because the Company of Quebec was not in a condition to occupy it.

It is difficult to speak in terms of deserved eulogy of this great Bay in respect to the commerce which has already been carried on there, and which might be established on the sea coast and in the interior, and as a basis of new discoveries.



## CAPITULATION OF FORT YORK.

*Articles de capitulation entre Guillaume Allen, Commandant en Chef dans le Rivière Hays, ou Ste. Thérèse, et le Sieur G. de la Forest, Commandant du Fort York ou Bourbon, le 31me d'Août, 1696.*

Je consens de vous rendre mon fort sur les conditions suivantes :

1. Que moi et tous mes gens, tant Français que sauvages, et un Anglais que est mon domestique, aurons tous la vie sauve, et la liberté, sans qu'il nous soit fait aucun tort ou violence, soit en nos personnes ou en ce qui nous appartient.

2. Nous sortirons du fort avec nos armes, tambour battant, mèche allumée, balle en bouche, enseignes déployées et emporterons avec nous les deux canons que nous avons apportés de France.

3. Nous serons transportés tous ensemble, en votre propre vaisseau, à Plaisance qui est un fort Français de Terre-neuve. Nous ne voulons point rendre le fort jusqu'à ce qu'on nous embarque et nous aurons le pavillon Français arboré dans le fort jusqu'à ce que nous en sortions.

4. Si nous rencontrons de nos vaisseaux, il y aura trêve entre vous et eux, et il sera permis de nous transporter avec tout ce qui nous appartient.

5. Nous emporterons avec nous tous les castors et autres marchandises que nous avons traités cette année, qui seront embarqués avec nous sur nos vaisseaux.

6. Tous mes gens emporteront leurs hardes et tout ce qui leur appartient, sans qu'il soient visités ni pillés de quoi ce soit.

7. Pendant le voyage en cas de maladie, vous nous fournirez tous les remèdes et médicaments dont nous aurons besoin.

8. Les deux Français, qui doivent revenir avec les Indiens seront reçus dans le fort à leur retour où ils seront traités comme les Anglois, et transportés en Europe la même année, ou il leur sera fourni toutes choses nécessaires pour les rendre à la Rochelle.

Nous aurons le libre exercice de notre religion et il sera permis au père Jesuite, notre missionnaire, de faire publiquement les fonctions de son ministère.\*

The Company could hold everything there if it could seize Port Nelson ; but the expense of the war sustained against England has greatly weakened it, and obliged it to have recourse to your Excellency, to obtain sufficient force, and in a suitable time to drive out the English.

By your very respectful and very obedient servants,  
(Signed)

ROUER DE VILLERAY,  
*For the Ancient Company,*

F. RAZEUR,  
MACART,  
Le PICART,  
PACHOT,  
BENACE,

*For M M. Catignon and Duprat,*

GOBIN,  
FAUVEL.

[" War breaking out between the two nations, the Hudson's Bay Company solicited for soldiers to be sent thither to recover their settlements ; and in the year 1693 they retook all the forts and factories which the French had taken from them in time of peace."—*Oldmixon.*]

\* *Articles of capitulation between William Allen, Commandant in Chief at Hays or Ste. Therese River, and Sieur G. de la Forest, Commandant of Fort York or Bourbon, August 31, 1696.*

I consent to give up to you my fort on the following conditions :

1. That I and all my men, French as well as Indians, and my English servant, shall have our lives and liberty granted to us, and that no wrong or violence shall be exercised upon us or whatever belongs to us.

2. We shall march out of the Fort, with our arms, to the beat of the drum, match lighted, ball in mouth, flags unfurled, and carry with us the two cannon which we brought from France.

3. We shall be transported all together, in our own vessel, to Plaisance, a French port in Newfoundland. We do not wish to give up the Fort till we have embarked, and we shall keep the French flag over the Fort till we march out.

4. If we meet with our vessels, there shall be a truce between us, and it shall be permitted to transport us with whatever belongs to us.

5. We shall take with us all the beaver skins and other merchandize obtained in trade this year, which shall be embarked with us upon our vessels.

## LA COMPAGNIE DU NORD.

(Lettre de MM. de Vaudreuil et de Beauharnois sur les affaires générales de la colonie. 19 Septembre, 1705.)

La Compagnie de ce pays n'est point en état d'envoyer, l'année qui vient, un vaisseau à la Baie d'Hudson pour y porter les vivres qu'il faut pour la garnison qui y est et pour en rapporter le castor et les autres pelleteries qui y ont été traitées, et y porter de nouvelles marchandises ; et comme les armemens qui se font en ce pays coûtent des sommes immenses et que ce poste est aussi mieux à portée d'être exploité de France que dans ce pays, nous vous supplions, Monseigneur, de vouloir bien y envoyer un vaisseau ; car, sans ce secours, la garnison périrait faute de vivres ; vous avez, Monseigneur, le Sieur de Grandville, garde marine, qui a déjà fait ce voyage.\*

## THE BOUNDARIES TO BE SETTLED.

In the letter of 26th October, 1719 (de MM. Vaudreuil et Begon), the writer says : " Ils ont appris avec joie que Sa Majesté donne ordre à son ambassadeur en Angleterre de proposer et de nommer des commissaires de part et d'autre pour régler les limites de la Nouvelle France. Ce qui paraît fort nécessaire parce que les Anglais, profitant des ménagements que les Français et les sauvages ont pour eux en temps de paix, s'établissent au bas de la rivière de Naurantsonak, où ils sont au nombre de 500 hommes, ce qui fait assez connaître le dessein qu'ils ont de se mettre en état de s'y maintenir en cas de guerre et même d'y chasser les sauvages de cette mission.†

## RELATIVE VALUE OF NORTHERN AND SOUTHERN FURS.

" Les pelleteries du nord sont sans contrédit les plus belles qui soutiennent toujours leur prix et ne sont jamais à charge, l'empressement du Sr. Nubert et Cie pour les avoir en est une preuve incontestable ; d'ailleurs une canotée de ces sortes de pelleteries produit plus d'argent que 6 canotées de celles du sud et ne contient pas d'avantage."—*Memoire pour le rétablissement du commerce du Canada, par Delino ; adressé au Comte de Pontchartrain, Ministre et Secrétaire d'Etat, Contrôleur-Général de la Marine, Octobre 25, 1710.‡*

6. All my men shall embark their clothes and whatever belongs to them without being subject to visitation or robbed of anything.

7. In case of sickness during the voyage, you shall furnish us with all the remedies and medicines which we shall require.

8. The two Frenchmen who ought to return with the Indians shall be received in the Fort on their return, where they shall be treated the same as the English, and sent to Europe during the same year, or they shall be furnished with everything necessary to take them to Rochelle.

We shall have the free exercise of our religion, and the Jesuit priest, our missionary, shall publicly perform the functions of his ministry.

\* The Compagnie du Nord is not in a condition to send next year a vessel to Hudson's Bay with necessary provisions for the garrison, and to bring back beaver skins and other furs which have been obtained in trade, and to take there new merchandize ; and as the armaments raised in this country cost immense sums, and as this post is in a better position to be conducted from France than this country, we pray you, Monseigneur, to send a vessel there ; for without such assistance the garrison will perish for lack of provisions : Sieur de Grandville, Keeper of Marine, has already made this voyage.

† They (the Canadians) have learnt with joy that his Majesty has given orders to his ambassador in England to propose and to name commissioners on both sides, to settle the limits of New France. This appears to be very necessary to be done, as the English exercise influences upon the French and the Indians in time of peace, to establish themselves on the River Naurantsonak, where they number 500 men ; showing a design to maintain themselves there in case of war, and even to drive away the Indians from this mission.

‡ The furs of the north are beyond question the finest ; they always maintain their price and never occasion a loss, as the strong desire manifested by Aubert & Co. to procure them incontestably proves. Besides, a canoe-load of this kind of furs brings more money than six canoe-loads of southern furs, and does not cost any more.—*Memoir for the re-establishment of the commerce of Canada, by Delino ; addressed to Count de Pontchartrain, Minister and Secretary of State, Comptroller-General of the Marine, October 25, 1710.*



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M. DE BEAUHARNOIS TO COUNT DE MAUREPAS.

October 8, 1744.

"In regard to the posts on Hudson's Bay and those they [the English] have established on this side, in the direction of Temiscaming, and which his Majesty has been pleased to recommend me to endeavour to neutralize, or to utterly destroy if possible: I have accordingly instructed Sieur Guillet, who farms the post of Temiscaming, and has gained the good opinion of all the nations thereabouts, to prevail on them to assemble together, in the course of this winter, in order to fall, at the opening of the spring, as well on Fort Rupert as on the other posts in the direction of Hudson's Bay. I have in like manner, on receiving the news of the war, sent orders to Missilimakinac, to be transmitted to Alepimigon and other posts in that neighbourhood, so that they may all co-operate in the destruction of the English establishments at the north, and among the rest, of that newly built, about twenty leagues above Michipicoton, by a Canadian refugee, who conducted thither seven or eight Englishmen who trade there; and I have ordered not only the forcible destruction of that establishment, but also that the Canadian be killed, if it be possible to seize him. I have also given Sieur Guillet notice that I should, at the very opening of spring, despatch a party of Frenchmen and Indians, under the command of an officer and some others, to make a simultaneous attack on these posts. Sieur Guillet is to warn those Indians of this expedition, in order that they may hold themselves in readiness to join it, and, in fact, I calculate on sending it as soon as the season will permit, and I beg you, my Lord, to assure his Majesty that I will not neglect anything to utterly destroy, if possible, the English establishments in that quarter, as well as all those the difficulties whereof I shall be able to surmount."

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M. DE BEAUHARNOIS TO COUNT DE MAUREPAS.

Montreal, June 18, 1745.

"I am on my guard and merely on the defensive, not being able to act offensively, as I had the honour to inform you, either against New England or the posts on Hudson's Bay, in consequence of the want in the King's stores, and even in those of the merchants, of the supplies necessary for such expeditions, a circumstance I was not informed of last autumn. Besides, the preservation of our possessions and forts being my principal object, I considered it more prudent not to divest ourselves of our small means of resistance in case of attack, and to suspend the *other* projects until I be in a condition to execute them."

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RIVAL CLAIMS OF THE FRENCH AND ENGLISH.

*Prétensions réciproques des Français et des Anglais sur les Colonies.* Pays pris par les Anglais pendant la paix: Le Fort Bourbon dans la Baie d'Hudson, les Français les en chassèrent en 1695; les Anglais les l'ont repris en 1696. Partie à rendre par les Anglais.

Pris par les Français pendant la paix: les 2 forts du sud de la Baie d'Hudson; les Anglais s'en sont remis en possession pendant la guerre.—*Correspondence officielle relative au Gouvernement du Canada*, 3me Série, I. Archives de Paris.

## THE ENGLISH SIDE FROM THE HUDSON BAY COMPANY'S POINT OF VIEW. 1567.

[The following account of discoveries and national rivalries, in and around Hudson's Bay, is abridged by Charles Lindsey, Esq., from Oldmixon's *British Empire in America*.\*]

In the year 1576, Cap. Martin Frobisher made his first voyage for discovery of a passage to China and Cathay by the north-west ; and on the 12th of June he discover'd Tierra de Labrador in 63 degrees 8 minutes, and enter'd a Streight which he called by his name. On the 1st of October he return'd to England. In the following year, he went a second time on the same discovery, came to the same Streight, and us'd all possible means to bring the natives to trade, or give him some account of themselves ; but they were so wild, that they only study'd to destroy the English. Cap. Frobisher stay'd here till winter drew on, and then he return'd to England. He made the same voyage the following year, and with the like success.

Six years afterwards, A.D. 1585, John David sail'd from Dartmouth on the same adventure, came into the latitude of 64 degrees 15 minutes, and proceeded to 66 degrees 40 minutes. In the year ensuing, he ran to 66 degrees 20 minutes, and coasted southward again to 56 degrees. Sailing thence in 54 degrees, he found an open sea, tending westward, which he hoped might be the passage so long sought for ; but the weather proving tempestuous, he return'd to England. In October, the next year, he did the same. After which there were no more adventures this way, till the year 1607, when Captain Henry Hudson discover'd as far as 80 degrees 23 minutes. In 1608, he set out again ; and, having added little to his former discoveries, return'd. Two years after he again undertook a voyage to find out the north-west passage, proceeded 100 leagues further than any man had done before him, till he could not go forward for ice and shoal water ; and finding himself imbay'd, he resolv'd to winter there. In the spring of 1611, pursuing a further discovery, he and seven more of his company were seiz'd, the rest of his men put into an open boat, and committed to the mercy of the waves and savages.

We know 'tis pretended, that a Dane made the discovery of this Streight, and that he call'd it Christiana, from the King of Denmark, Christiern the IVth, then reigning. But Cap. Hudson was the man who discover'd it to the English, and who indeed first sail'd so near the bottom of the Bay, as he did within a degree or two.

The same year that he dy'd, Sir Thomas Button, at the instigation of Prince Henry,† pursu'd the same discovery. He pass'd Hudson's Streights, and leaving Hudson's Bay to the south, settled about 200 leagues to the south-west, and discover'd a great continent, by him called New Wales. He winter'd at the place afterwards call'd Port Nelson, carefully search'd all the Bay, from him call'd Button's Bay, and return'd to Diggs's Island.

In 1516, Mr. Baffin enter'd Sir Thomas Smith's Bay, in 78 degrees, and return'd despairing to find any passage that way. All the adventures made to the north-west, were in hopes of passing to China. In 1631, Capt. James sail'd to the north-west, and arrived at Charlton Island, where he winter'd in 52 degrees. Cap. Fox went out this year on the same account, but proceeded no further than Port Nelson.

The civil wars in England put discoveries out of men's heads ; and we hear of no more such adventures till the year 1667, when Zachariah Gillam, in the *Nonsuch*, Ketch, pass'd thro' Hudson's Streights, and then into Baffin's Bay to 75 degrees ; and thence southward into 51 degrees ; where in a river, afterwards call'd Prince Rupert's River, he had a friendly correspondence with the natives, built a fort, nam'd it Charles Fort, and return'd with success.

The occasion of Gillam's going was this : Monsieur Raddison and Monsieur Gooselier [de Groisselier], two Frenchmen, meeting with some savages in the Lake of Assimpouals, in Canada, they learnt of them that they might go by land to the bottom of the Bay, where the English had not yet been. Upon which they desir'd them to conduct them

\* This account may be regarded as semi-official, having been chiefly compiled and much of the materials being derived from the Hudson's Bay Company.

† The expense of the expedition was certainly borne by merchant adventurers of London.



thither, and the savages accordingly did it. The two Frenchmen return'd to the upper lake the same way they came, and thence to Quebec, the capital of Canada : where they offer'd the principal merchants to carry ships to Hudson's Bay, but their project was rejected. Thence they went to France, in hopes of a more favourable hearing at court ; but, after presenting several memorials, and spending a great deal of time and money, they were answer'd as they had been at Quebec, and their project look'd upon as chimerical. The King of England's ambassador at Paris, hearing what proposals they had made, imagin'd he should do his country a good service in engaging them to serve the English, who had already pretences to the Bay, persuaded them to go to London, where they met with a favourable reception from some men of quality, merchants and others, who employ'd Gillam, before-mention'd, a New England Captain, in the voyage ; and Radison and Gooselier accompanying, they arrived at the bottom of the Bay, and succeeded as we have hinted already.

When Gillam return'd, the adventurers concerned in fitting him out apply'd themselves to King Charles II. for a patent ; who granted one to them and their successors, for the bay call'd Hudson's Bay, and the streights called Hudson's Streights. The patent bears date the 2nd of May, in the 22nd year of that king's reign, A. D. 1670.

On the west side of the Bay, the English made a settlement, and built a fort at Port Nelson. The Bay here is call'd Button's ; and Hudson's Bay is broadest in this place. The two opposite shores are call'd the East Main and West Main. The former is Labrador, and the latter New South Wales. The continent at the bottom of the Bay is by the French pretended to be part of New France ; and indeed to cross the country from St. Margaret's River, which runs into the River of Canada, to Rupert's River, at the bottom of Hudson's Bay, is not above 150 miles. At Rupert's River, the English built their first fort, which they call Charles Fort.

In the year 1670 the Company sent off Charles Baily, Esq., Governour, with whom went Mr. Radison and 10 or 20 men, who were to stay on the place ; his residence being at Rupert River, where a mean fort has been built. Mr. Baily appointed Mr. Thomas Gorst to be his secretary, and order'd him to keep a journal of their proceedings there, which is now in my custody.

The English had now worse hutts than afterwards, and no covering for them but moose skins. There was at this time a factory at Port Nelson, where Captain Gooselier arrived in August, 1673. He search'd the river for Indians, but met with none. He saw several wigwams, where they had lately been, and suppos'd them to be gone up the country. This captain was order'd to search for Severn River, but could not find it, tho' 'twas in the old draughts of this Bay.

Now Mr. Baily and his little colony fell to patching up their cabbins, and prepare for the enemy. The 23rd of October several Indians came to the Fort to trade, and among others one from Quebec.

Several Indians came in March, and built their wigwams at the east-end of the Fort, intending to stay there all winter, that they might be ready for trade in the spring. About the 20th of March it began to thaw ; and the Nodwayes still threatening the English with war, the Governour prepar'd every thing necessary in the Fort for his defence. On the 25th of March, six men as Ambassadors, came from King Cuscudidah, to notify his approach, and that he would be at the Fort next day, which he made good, and was troubled that the Governour was absent. He brought a retinue with him, but little beaver, the Indians having sent their best to Canada.

The English at the Fort stood on their guard, and Mr. Cole commanded them in the Governour's absence ; for whom the King sent two Indians. And the 31st of March, the Governour returned, with a small supply of moose flesh.

All this while the Indian King stayed at the wigwams, near the Fort ; and the reason of it was, they were apprehensive of being attack'd by some Indians, whom the French Jesuits had animated against the English, and all that dealt with them. The French us'd many artifices to hinder the natives trading with the English ; they gave them great rates for their goods, and oblig'd Mr. Baily to lower the prices of his, to oblige the Indians who dwelt about Moose River, with whom they drove the greatest trade.

The French to ruin their commerce with the natives, came and made a settlement,

not above eight days' journey up that river, from the place where the English traded. 'Twas therefore debated, whether the Company's agents should not remove from Rupert's to Moose River, to prevent their traffick being intercepted by the French.

On the 3rd of April, 1674, a council of the principal persons in the Fort was held, where Mr. Baily, the Governour, Capt. Gooselier, and Capt. Cole, were present, and gave their several opinions. The Governour inclin'd to remove. Capt. Cole was against it, as dangerous; and Capt. Gooselier for going thither in their bark to trade, when the Indians belonging to King Cuscudidah were gone a hunting, and there was no fear of the Fort's being surpriz'd.

The Indians went to building their wigwams near the Fort, and rais'd their Wauscoheigin, or fort, so near the English, that the palisadoes join'd. On the 20th of May, 12 Indians, subjects to King Cuscudidah, came in seven canoos, and the King meeting them, conducted them to the Fort, where they told him there would be few or no Upland Indians come to trade that season, the French having perswaded them to come to Canada. However Mr. Baily order'd the sloop to be got ready, and resolv'd to go up the river.

Upon the arrival of this new company, among whom was the King's brother, a feast was made.

The next day (May 23), the Governour, and some English and Indians arm'd, went down to the bottom of the bay, to Frenchmen's River, to seek for the Nodways, but could meet with none. On the 27th of May, about 50 men, women and children, came in 22 canoos, to trade, but brought little or no beaver with them. They were of the nation called Pishhapocanoes, near a-kin to the Eskeimoes, and both alike a poor beggarly people: by which we may perceive the French ran away with the best of their trade.

The Governour having got everything ready for a voyage to Moose River, sent Capt. Gooselier, Capt. Cole, Mr. Gorst, my author, and other English Indians, to trade there. They got about 250 skins; and the captain of the Tahittee Indians informed them, the French Jesuits had not brib'd the Indians, not to deal with the English, but to live in friendship with the Indian nations in league with the French. He blam'd the English for trading with such pitiful nations as the Cuscudidahs and Pishhapocanoes, advising them to settle at Moose Sebee, and the Upland Indians would come down and trade with them. The reason they got no more peltry now, was, because the Indians thought Gooselier was too hard for them, and few would come down to deal with him.

Mr. Baily sail'd himself for Moose Seebee, and brought home 1500 skins; the Shechittawams, 50 leagues from that river, having come to trade with him. By the 24th of June all the Indians had left their wigwams near the fort, and were gone abroad to hunt and trade, some with the English and some by themselves.

The Governour undertook a voyage to discover Shechittawam River; and thence intended to coast along to Port Nelson, where as yet was no Fort. In the meantime Mr. Gorst, who was left deputy at the fort, sent a yaul, and four men well arm'd, up the Nodways River, which, as high as they could go for the Falls, was 5 miles broad. After about 2 months' voyage, Mr. Baily returned, and gave this account of his voyage in the sloop. On the 16th of July he sail'd from Moose River, and arriv'd at Schettawam River on the 18th, where no Englishman had been before.\* He stayed there till the 21st, but could meet with little or no beaver.

'Tis a fine river, and a good channel to the N. W. in 52 degrees, N. L. He treated with the King, and his son made them a promise to come with a ship and trade with them the next year. In return, they assured him they would provide store of beaver, and bring the Upland Indians down.

On the 27th of July, the sloop ran upon ice, and had like to have founderd.

After he had returned to the fort, on the 30th of August, a canoo arriv'd at Rupert's River, with a missionary Jesuit, a Frenchman, born of English parents, attended by one of Cuscudidah's family, a young Indian. The Frier brought a letter to Mr. Baily from the Governour of Quebec, dated the 8th of October, 1673. For the Priest should have been at Rupert's River several months before, but that he was stopp'd by the Indians.

\* The same as Quichichouanne.



The Governour of Quebec desir'd Mr. Baily to treat the Jesuit civilly, on account of the great amity between the two crowns ; and Mr. Baily resolv'd to keep the Jesuit till ships came from England.

The Tabittee Indians being within the Hudson's Bay Company's Pattent, 'twas an encroachment for the French to trade with them ; the Jesuit confessed they did it. Mr. Baily cloath'd him, the Indians having robbed him ; and entertained him with great kindness. The Priest resolving to return to Europe in an English ship, did not like another journey of 406 miles length, thro' many barbarous nations, overland, and a country almost impassable.

The English were frequently alarm'd with reports of incursions from the Nodways and Moose River Indians, whose quarrel with him was their selling too dear.

In the evening, Sept, 24, the sloop appear'd in the river, but having no ensign out, they concluded they were all lost men ; and in this extremity of sorrow, they were soon revived by the sight of 5 Englishmen, whom they had not seen before, and from whom they understood, the *Prince Rupert*, Capt. Gillam, commander, was arriv'd, with the new Governour, William Lyddal, Esq.

The next day the old Governour, and Mr. Gorst, sailed for Point Comfort, where the *Shaftesbury*, Capt. Shepherd, commander, arriv'd also from England. And the new Governour's commission and instructions being read, all hands set to work, to refit and load the ships home as soon as possible.

On the 18th September, Mr. Lyddal landed, and took possession of the fort. Mr. Baily deliver'd him the pattent. Mr. Lyddal, finding the season would be so far spent, before the ships could be unloaden and loaden again, that it would be impracticable to return ; after several councils, 'twas resolv'd, they should winter at Rupert's River ; and Capt. Gillam, and Capt. Shepherd's ships' crews were employed to cut timber, to build houses for them, as also a brew-house and bake-house in the fort.

Mr. Baily, who had very well discharged his trust, returning to England, inform'd the Company fully of their affairs ; and now as they advanced in reputation, so they were industrious to increase their trade and settlements. They appointed a trader to act under the Governour and chiefs of the factories at other rivers, according as they were settled.

Port Nelson was the next settlement which they made, and thither they sent John Bridger, Esq., with the character of Governour for the Hudson's Bay Company of the West Main, from Cape Henrietta Maria, which was included in the Governour of the East Main's patent.

Mr. Lyddal was succeeded by John Nixon, Esq., in whose time the Company thought of removing their chief factory from Rupert's River to Chickwan River, as the place most resorted to by the Indians. Charlton Island was now frequented by the ships bound to Hudson's Bay, and made the place of rendezvous for all the factors to bring their merchandise to, and load it there aboard the Company's ship.

In the year 1682, Mr. Bridger embark'd for Port Nelson, where a factory was to be establish'd and a fort built, but before he arriv'd, Cap. Benjamin Gillam, master of a New England ship, and son of Cap. Gillam, commander of the *Prince Rupert*, then in the Company's service, settled at that factory, but had not been there above 14 days before Mr. Raddison and Cap. Gooselier, who deserted the English, arrived from Canada.

The Company having dismiss'd them their service, these two Frenchmen in revenge procured some merchants of Canada to undertake a settlement there. Gillam was not strong enough to repel them, but he remain'd at Port Nelson ; where 10 days after Raddison and Gooselier's arrival, came Mr. Bridger. The French no sooner perceiv'd he was come, but they sent aboard his ship immediately, and commanded him to be gone, for that Mr. Raddison and Cap. Gooselier had taken possession of the place for the French King, their master.

Mr. Bridger, being warranted so to do by the Company's commission, unloaded some of his goods, and with all hands went to work in order to make a settlement. Raddison continu'd at Port Nelson, and Mr. Bridger and he became very intimate, which intimacy lasted from October, 1682, to the February following, when Raddison seized Bridger and Gillam, with all their people and effects.

Having kept them some months in a sort of imprisonment, about August the French put several of the Company's and Gillam's people aboard a rotten bark, and they were

taken up by an English ship near Cape Henrietta Maria. Bridger and Gillam they carry'd with them to Canada, where Raddison and Gooselier ran some of their cargo ashore, intending to defraud their employers. After which they made their escape, and got into France. The Company, having notice of it, writ to him, and he to the Company, promising, if they would forgive the injury he had done them, and employ him again at such a salary, he would undertake to deliver the French, whom he had left there till he came again, to them, and seize all the furs they had traded for, which would make them satisfaction for the wrongs he had done them. Accordingly they forgave him and employ'd him again, and he took Port Nelson from his countrymen. But before his arrival Cap. John Abraham had been there with supplies of stores; and finding Mr. Bridger was gone, he stay'd himself and was continu'd Governor by the Company, in 1684.

In the preceding year, Mr. Nixon, Governour of Rupert's River, was recall'd, and Henry Sergeant, Esq., made Governour. By whose instructions we find the chief factory was remov'd from Rupert's to Moose-sebee, or Chickewan River which has ever since been call'd Albany River; where a fort was built, a factory settled, and the Governour made it the place of his residence. 'Tis the bottom of the Bay, below Rupert's River.

He was order'd to come every spring, as soon as the trade was over, to Charlton Island and bring what goods he had with him, to wait for the arrival of the Company's ships. From thence he was to visit the other factories, and see that their merchandize was sent in due time to Charlton Island, to attend the ship's arrival.

The Governour of Canada, having given the Hudson's Bay Company to understand the French were very much offended at their discoveries\* in these parts, Mr. Sergeant, was ordered to be careful that he was not surpriz'd by them.

There is an island in the bottom of the Bay called Hayes Island, where a factory had been settled. This isle and Rupert's River were near the French, Albany being more to the southward; and of these factories the company were most apprehensive that their enemies would endeavour to dispossess them.

The Company intended to plant a colony at Charlton Island, and order'd Mr. Sergeant to build a fort there, and always keep some men upon it. Warehouses were also built to receive the furs that were brought thither from the factories, and conveniences were made for the reception of such as were obliged to winter there.

Orders were also given to dismiss Cap. Gillam from their service for his son's offences; and Cap. Sandford had the same usage, on account of his relation to the Gillams. Cap. William Bond, who had been under Mr. Baily, was sent for home; and other regulations made in the management of affairs, but all could not hinder the ruin of them all by the enemy.

The Company, by their Governours and agents, made such compacts with the captains or kings of the rivers and territories where they had settlements, for the freedom of trade there, exclusive of all others, that the Indians could not pretend they had encroach'd upon them. These compacts were render'd as firm as the Indians could make them, by such ceremonies as were most sacred and obligatory among them.

Now were the Company in possession of five settlements, viz., Albany River, Hayes Island, Rupert River, Port Nelson, and New Severn. Their trade at each of these was considerable. From Albany River they had generally 3,500 beavers a year; and by Mr. Sergeant's great care and fidelity, their commerce increas'd so much that the French began to be afraid all the Upland Indians might be drawn down to the Bay. They knew that they could do anything with King James II., who then reigned in England, and that no affront would make that prince break with Lewis the XIV. Wherefore they resolved to drive the English out of all their places in the bottom of the Bay. They first took Hayes Island, and then the fort on Rupert's River. The French Company at Canada procured a detachment of soldiers to be sent under the Chevalier de Troyes, who came overland from Quebec, and in a time of profound peace committed these acts of hostility.

The 8th of July, 1686, the Chevalier de Troyes came before the fort at Albany River, where the Governour, Mr. Sergeant, then resided. Two Indians had inform'd him

\* Encroachments the French considered them.



of their having surpriz'd the forts at Hayes Island and Rupert River, and had brought with them the great guns from those places.

Two hours after the English heard them discharge their guns, and saw some of them at a distance. Upon which part of the Company's servants declar'd they would not venture their lives unless they might be assur'd of pay, and sent John Parsons and John Garret, two of their number, in all their names, to the Governour, to tell him their resolutions. Mr. Sergeant, by promises and giving them cloaths and other necessaries, prevail'd with them to return to their charge. But in a day or two they mutiny'd again, and Elias Turner, the gunner, possess'd the people with an apprehension that it was impossible to hold out the place, declaring that for his part he would throw himself on the French. Accordingly he went to the Governour, and desir'd leave so to do; but being threat'ned to be shot to death in case he attempted it, he was at last perswaded to return to his post.

The English shot at the French as long as they appear'd in the brushes, and forc'd them to retire under the banks, where the guns from the fort could not hit them. The French had found a way to bring their great guns through the woods, and had planted them on their battery before the English saw them.

The enemy's shot had made a breach in the flankers, and damaged the houses in the fort; upon which, and the repeated desires of the men, the Governour consented to a parley; Mr. Bridger assuring him the enemy were mining them, and they should certainly be blown up. Cap. Outlaw also agreed to capitulate, and the white flag was hung out; after which a treaty was concluded.

At this time Thomas Phips, Esq., was Governor of Port Nelson, which was not then taken by the French; and the Company expected Fort Albany would have been restor'd to them in King James' time; but all their solicitations were in vain, and all the settlements they had, Port Nelson excepted, were abandoned to the French.

The war breaking out, as has been said, between the two nations, the Hudson's Bay Company solicited for soldiers to be sent thither to recover their settlements; and in the year 1693 they retook all the forts and factories which the French had taken from them in time of peace.

In which expedition they met with no more difficulties than the Chevalier de Troyes had met with. Cap. Grinnington was the person employ'd for this service; and John Knight, Esq., was appointed Governour of Fort Albany; but his government was of no long continuance, for in a little time the French sent such a power against the English, that they again drove them from all their settlements in the bottom of the Bay.

The French Company made Monsieur de la Fores Governour of Fort Albany, and garrison'd all forts they had taken, which made it necessary for the government to send a stronger power than the Company could raise to recover them.

The King of England, to protect their trade, assign'd two men of war for their service, in the year 1696, as the *Bonaventure*, Cap. Allen, Commander, and the *Seaford*. Cap. Allen, coming into the River Hayes, sent to summon all the forts to surrender, and the French Governour finding he could not defend them against the English, capitulated, and on the 2nd of August, 1696, surrender'd Albany Fort.

Cap. Allen took the Governour and some of his men aboard his own ship; some he put aboard the *Seaford*, and the rest aboard a merchantman call'd the *Dering*. In his return he fought the *Mary Rose*, frigate, then a French privateer of 50 guns, and was kill'd in the engagement, which gave the Frenchman an opportunity to bear away.

As to the other two forts, they followed the fate of Albany, and Mr. Knight was restored to his government; at which time John Geyer, Esq., was Governor of Port Nelson. Mr. Knight had serv'd Mr. Sergeant while he was Governour of Fort Albany, and was well acquainted with the trade.

In the year 1697, the *Hampshire*, frigate, and *Owner's Love*, fire-ship, two of the King's ships, were lost in this Bay, and all the men drown'd. Indeed the ice renders it so dangerous that the commerce seems to be not worth the risk that is run for it. Whether those two ships ran against those frozen mountains that float in that sea, or founder'd, is not known; but 'tis certain they were lost, and all the men perish'd.

In the present war they lost Port Nelson to the French, and have either given up or deserted all their settlements, except Fort Albany, where Mr. Knight manag'd their

affairs till the year 1706, when he was succeeded by John Fullerton, Esq., the present Governour at Albany River.

## OTHER ACCOUNTS.

La compagnie de la Baie d'Hudson a actuellement quatre factoreries, Churchill, le Fort York, Albany, et celle de la rivière de Moose. Le Fort York est réputé le plus important : il est situé sur le bras meridional de la rivière de Hayes, cinque lieues au-dessus de l'endroit où elle se jette dans la mer, à 57° 20' lat., et à 93° 68' de longitude. \**Histoire et Commerce des Colonies Anglaises dans l'Amerique Septentrionale*: London, 1775.

"The whole of the settlements in New Britain are as follows:—Abbitibbi, Frederrick, East Main and Brunswick Houses, Moose Fort, Henley, Gloucester and Osnaburg Houses, and a House of Winnipeg Lake, Severn or New Severn, York Fort or Nelson, Churchill Fort or Prince of Wales' Fort, South Branch, Hudson's, Manchester and Buckingham Houses: the last is the westernmost settlement, and lately erected (1798.)

"Hudson's House, one of the Company's factories on the S. W. side of Saskatchewan River, 100 miles east of Manchester House, and 167 S.E. of Buckingham House, or lat. 55° 32', W. long. 106° 27' 20'.†"—*American Gazetteer*. By Jedediah Morse, D.D., London, 1798.

Winterbotham's *Historical, Geographical, and Philosophical View of the United States, and of the European Settlements in America and the West Indies*, 1795, gives the following as the forts occupied by the Hudson's Bay Company. They were all on the shores of the Bay :

	N. Lat.	W. Lon.
Churchill,	59° 0'	94° 30'
York Fort,	57° 10'	93° 0'
Severn House,	56° 12'	88° 57'
Albany Fort,	52° 18'	85° 18'
Moose Fort,	51° 28'	83° 15'
East Main,	53° 24'	78° 50'

And he adds :

"The country lying round Hudson's Bay, or the country of the Esquimaux; comprehended Labrador, New Britain, and South Wales, has obtained the general name of New Britain, and is attached to the government of Lower Canada. A superintendent of trade, appointed by the Governor-General of the four Provinces, and responsible to him, resides at Labrador.

"Before the Canadian merchants pursued the fur trade with such diligence as they now do through the lakes, and had penetrated into the interior parts of Hudson's Bay, a great number of Indians used to come annually down to the Company's settlements to barter their skins; and although the Company have now in a great measure lost the benefit of this lucrative traffic, it may not be amiss to mention the manner in which the Indians prosecute their voyages to the factories.

"The merchants from Canada have been heard to acknowledge that were the Hudson's Bay Company to prosecute their inland trade in a spirited manner, they must soon be obliged to give up all thoughts of penetrating into the country; as from the vicinity of the Company's factories to the inland posts, they can afford to undersell them in every branch.

"To explain this emulation between the Company and the Canadian traders, it will be necessary to review the state of the Company in the year 1773. About that time, the Canadian traders from Montreal, actuated by a laudable spirit of industry and adventure,

\* The Hudson's Bay Company has at present four factories: Churchill, Fort York, Albany, and that of Moose River. Fort York is reputed the most important: it is situated on the south branch of the Hayes River, five leagues above the point where it runs into the sea, at 57 deg. 20 min. lat., and 93 deg. 53 min. long.

† This would be about the forks of the Saskatchewan. In another place this fort is said to be 600 miles west of Fort Churchill. The same statement is made in the folio edition of 1794.



and experiencing the peculiar advantages that resulted from their exertions, had become so numerous and indefatigable at the head of the rivers which led to the Company's settlements, that the trade of the latter was in a great measure cut off from its usual channels. The Indians being supplied with everything they could wish for at their own doors, had no longer occasion, as they had hitherto done, to build canoes, and paddle several hundred miles, for the sake of cultivating a commerce with the Company, in which peregrination they were frequently exposed to much danger from hunger; so much so, that at one time seven canoes of Upland Indians perished on their return to their own country."

Edmund Burke, in his *Account of the European Settlements in America*, says: "Certain British geographers agree with the French, whose maps they have for a long time servilely and shamefully copied."

Again: "With regard to our claims in the Ohio and Mississippi, the rashness of some writers in a matter which is a public concern, seems to me very blamable, some of them timidly or ignorantly drawing our territories into a very inconvenient narrowness, whilst others have madly claimed all North America from sea to sea; some would give us very narrow bounds, whilst others would listen to no bounds at all." (1757.)

And again: "Posterity will, perhaps, think it unaccountable that, in a matter of such importance, we could have been so thoughtless as to have on our back such a nation as France, without determining, even sufficiently clear to settle our own demands, what part of the country was our own right, or what we determined to leave to the discretion of our neighbours; or that, wholly intent upon settling the sea coast, we have never cast an eye into the country, to discover the necessity of making a barrier against them, with a proper force, which formerly did not need to have been a very great one, nor to be maintained at any great expense."

Salmon's *Modern History*, licensed by the King, Dec. 13, 1743, says: "As to Canada, or New France, the French would scarce admit it had any bounds to the north on this side the pole, till they were limited on that side by an article in the treaty of Utrecht, which assigns New Britain and Hudson's Bay, on the North of Canada, to Great Britain. And Commissioners on both sides afterwards ascertained the limits,\* by an imaginary line running from a cape or promontory of New Britain in the Atlantic ocean, 58° 30' north latitude, and running from thence south-west, to the Lake of Micosink, or Mistasin, and from thence further south-west indefinitely to the latitude of 49°, all the lands to the north of the said line being assigned to Great Britain, and all to the south of the said line, as far as the St. Lawrence, to the French.

"The eastern boundary of New France or Canada, the French admit, are the British plantations of Nova Scotia, New England, &c.; the southern boundary, the line which divides New France from Louisiana; and to the westward, the French extend the country of New France as far as the Pacific Ocean; and the Asiatic continent of Asia shall be found hereafter to be contiguous to North America.

"\* \* \* However, as they [the French] have actually been possessed of some countries in Canada, between the River St. Lawrence and New Britain or Hudson's Bay, for about one hundred years, and those countries seem to be confirmed to them, as far as the English had a right to confirm them, I shall readily allow their title to that part of Canada. But as to the rest of Canada and Louisiana, they cannot have a right to any part of them, notwithstanding the posts they have erected on those rivers. The eastern side of the Mississippi is the property of those Indians, subject to Great Britain, and the western side of it belongs to the Indians, who are under the dominion of the Spaniards; and we find the Spaniards asserting their title to it by demolishing the forts of Mons. de Salle and Mons. d'Iberville, erected on the west side of the river, and have as much right to demolish the forts the French have erected on the west side of it."

And the error about the boundary line of Canada having been determined is repeated: "And it was agreed [at Utrecht] that commissaires on the part of Great Britain and France should determine within a year the limits to be fixed between the said Bay of Hudson and the places appertaining to the French, which limits the subjects of

\* This is certainly a mistake, though it seems to have been generally believed. If the boundary had been agreed upon, the Hudson's Bay Company would not be ignorant of the fact; nor would the French Governor of Canada, some years later have claimed the Hudson's Bay for the northern boundary of his province.

Great Britain and France were not to pass over to each other by sea or land. And commissaires did afterwards settle the limits by an imaginary line, drawn from a promontory situate on the Atlantic Ocean, in  $58^{\circ} 30'$ , and running from thence south-west to the Lake of Miconsink, or Mistassin, and from thence south-west, indefinitely, to the latitude of  $49^{\circ}$ ; all the countries to the north being assigned to Great Britain, and all on the south, between that line and the River of St. Lawrence or Canada, to France."

Another writer, who has paid particular attention to North America, believed the fable of a Spanish vessel having crossed the continent from the Pacific Ocean to Hudson's Bay: "It is alleged that the Spaniards have recently found an entrance in the latitude of  $47^{\circ} 55'$  north, which in twenty-seven days brought them to the vicinity of Hudson's Bay; this latitude exactly corresponds to the ancient relation of John de Fuca, the Greek pilot, in 1592."—*Dalrymple's Plan for Promoting the Fur Trade*, 1789.

## INSTRUCTIONS OF CAPT. GEO. VANCOUVER, 1791.

[Captain Vancouver undertook a voyage of discovery to the North Pacific Ocean, in 1791, principally with a view to ascertain the existence of any navigable communication between the North Pacific and Atlantic Oceans, having command of the *Discovery* sloop of war, and the armed tender *Chatham*. His instructions were prepared]

"By the Commissioners for executing the office of Lord High Admiral of Great Britain and Ireland, &c.

"The King having judged it expedient that an expedition should be immediately undertaken for acquiring a more complete knowledge, than has yet been obtained, of the north-west coast of America; and, the sloop you command, together with the *Chatham* armed tender (the Lieutenant commanding which has been directed to follow your orders) having been equipped for that service, you are, in pursuance of his Majesty's pleasure, signified to us by Lord Grenville, one of his principal Secretaries of State, hereby required and directed to proceed, without loss of time, with the said sloop and tender, to the Sandwich Islands, in the North Pacific Ocean, where you are to remain during the next winter; employing yourself very diligently in the examination and survey of the said islands: and, as soon as the weather shall be favourable (which may be expected to be in February, or at latest in March, 1792), you are to repair to the north-west coast of America, for the purpose of acquiring a more complete knowledge of it, as above mentioned.

"It having been agreed, by the late convention between his Majesty and the Catholic King (a printed copy of which you will receive herewith), that the buildings and tracts of land situated on the north-west coast above mentioned, or on islands adjacent thereto, of which the subjects of his Britannic Majesty were dispossessed about the month of April, 1789, by a Spanish officer, shall be restored to the said British subjects, the Court of Spain has agreed to send orders for that purpose to its officers in that part of the world; but as the particular specification of the parts to be restored may still require some further time, it is intended that the King's orders, for this purpose, shall be sent out to the Sandwich Islands, by a vessel to be employed to carry thither a further store of provisions for the sloop and armed tender above mentioned, which it is meant shall sail from this country in time to reach those islands in the course of next winter.

"If, therefore, in consequence of the arrangement to be made with the Court of Spain, it should hereafter be determined that you should proceed, in the first instance, to Nootka, or elsewhere, in order to receive, from the Spanish officers, such lands or buildings as are to be restored to the British subjects, orders to that effect will be sent out by the vessel above mentioned. But if no such orders should be received by you previous to the end of January, 1792, you are not to wait for them at the Sandwich Islands, but



to proceed in such course as you may judge most expedient for the examination of the coast above mentioned, comprized between latitude 60 deg. north and 30 deg. north.

"In which examination the principal objects which you are to keep in view are,

"1st, The acquiring accurate information with respect to the nature and extent of any water communication which may tend, in any considerable degree, to facilitate an intercourse for the purpose of commerce, between the north-west coast and the countries upon the opposite side of the continent, which are inhabited or occupied by his Majesty's subjects.

"2dly, The ascertaining, with as much precision as possible, the number, extent and situation of any settlements which have been made within the limits above mentioned by any European nation, and the time when such settlement was first made.

"With respect to the first object, it would be of great importance if it should be found that, by means of any considerable inlets of the sea, or even of large rivers communicating with the lakes in the interior of the continent, such an intercourse, as hath been already mentioned, could be established; it will, therefore, be necessary, for the purpose of ascertaining this point that the survey should be so conducted as not only to ascertain the general line of the sea coast, but also the direction and extent of all such considerable inlets, whether made by arms of the sea, or by the mouths of large rivers, as may be likely to lead to, or facilitate, such communication as is above described.

"This being the principal object of the examination, so far as relates to that part of the subject, it necessarily follows that a considerable degree of discretion must be left, and is therefore left to you, as to the means of executing the service which his Majesty has in view; but, as far as any general instructions can here be given on the subject, it seems desirable that, in order to avoid any unnecessary loss of time, you should not, and are therefore hereby required and directed not to pursue any inlet or river further than it shall appear to be navigable by vessels of such burden as might safely navigate the Pacific Ocean: but, as the navigation of such inlets or rivers, to the extent here stated, may possibly require that you should proceed up them further than it might be safe for the sloop you command to go, you are, in such case, to take the command of the armed tender in person, at all such times, and in such situations as you shall judge it necessary and expedient.

"The particular course of the survey must depend on the different circumstances which may arise in the execution of a service of this nature; it is, however, proper that you should, and you are, therefore, hereby required and directed to pay a particular attention to the examination of the supposed straits of Juan de Fuca, said to be situated between 48 deg. and 49 deg. north latitude, and to lead to an opening, through which the sloop *Washington* is reported to have passed in 1789, and to have come out again to the northward of Nootka. The discovery of a near communication between any such sea or strait, and any river running into or from the Lake of the Woods would be particularly useful.

"If you should fail of discovering any such inlet as is above mentioned, to the southward of Cook's River, there is the greatest probability that it will be found that the said river rises in some of the lakes already known to the Canadian traders, and to the servants of the Hudson's Bay Company; which point it would, in that case, be material to ascertain; and you are, therefore, to endeavour to ascertain accordingly, with as much precision as the circumstances existing at the time may allow; but the discovery of any similar communication more to the southward (should any such exist) would be much more advantageous for the purposes of commerce, and should, therefore, be preferably attended to, and you are, therefore, to give it a preferable attention accordingly. . . .  
Given under our hands the 8th of March, 1791.

"CHATHAM.

"RD. HOPKINS.

"HOOD.

"J. T. TOWNSEND.

"To George Vancouver, Esq.,  
Commander of His Majesty's  
Sloop the *Discovery*, at Fal-  
mouth."

"By command of their Lordships,  
"PH. STEPHENS."

## CAPTAIN MIDDLETON TO A. DOBBS, ESQ.\*

*Jan'y, 1742-3.*

"I have seriously considered your proposition of laying open the Hudson's Bay trade, and settling the country higher up, upon those great rivers which run into the Bay ; and though I may agree with you in the great advantage the public would receive from such a settlement (could it be made), both as to their trade, and the cutting off communication with the Mississippi, yet I must declare my opinion, that it is altogether impracticable upon many accounts ; for I cannot see where we could find people enough that would be willing or able to undergo the fatigue of travelling in those frozen climates, or what encouragements would be sufficient to make them attempt it, with such dangerous enemies on every side ; no Europeans could undergo such hardships as those French that intercept the English trade, who are inured to it, and are called by us wood-runners (or *coureurs des bois*), for they endure fatigues just the same as the native Indians, with whom they have been mixed and intermarried for two or three or more generations.

"As to the rivers you mention, none of them are navigable with anything but canoes, so small that they carry but two men, and they are forced to make use of land carriages near the fourth part of the way, by reason of water-falls during that little summer they enjoy.

"Out of 120 men and officers the Company have in the Bay, not five are capable of venturing in one of those canoes, they are so apt to overturn and drown them. Many of our people have been twenty years and upwards there, and yet are not dexterous enough to manage a canoe ; so there would be no transporting people that way."

## OFFICIAL DESCRIPTIONS OF THE BOUNDARIES OF CANADA.

## DESCRIPTIONS IN THE COMMISSIONS OF FRENCH GOVERNORS OF CANADA.

The "lettres patentes du Lieutenant-Général du Canada et autres pays, pour le Sieur de la Roche, du 12me Janvier, mille cinq cent quatre-vingt dix-huit," make him "Lieutenant-Général ès dits pays de *Canada, Hochelaga, Terres-neuves, Labrador, Rivière de la Grande Baye, de Mozambique*, et terres adjacentes desdites Provinces et rivières lesquelles étant de grande longueur et étendue de pays sans icelles être habitées par sujets de Prince Chrétien. \* \* \* Pourvu toutefois que ce ne soient pays occupés ou étant sous la suzeraineté et obéissance d'aucuns princes et potentats, nos amis, alliés et confédérés."†

*Provisions en faveur du Sieur de Lauzon*, de la charge de Gouverneur et Lieutenant-Général du Roi en Canada, du 17me Janvier, 1651, donnant en charge du Gouverneur et notre Lieutenant-Général dans toute l'étendue du Fleuve Saint Laurent, en la Nouvelle France, isles, et terres adjacentes de parts et d'autre dudit fleuve, et autres rivières qui se déchargent en icelui jusqu' à son embouchure, à prendre dix lieues près de Miscou, du côté du sud ; et du côté du nord, autant s'étendent les terres dudit pays, de la même sorte, et tout ainsi que l'avoit, tenoit et exerçait le Sieur Daillebout.‡—*Commissions des Gouverneurs et Intendants*, T. II.

\* Capt. Middleton went to Hudson's Bay to attempt to discover a north-west passage to the Pacific. Year of publication, 1741. A. Dobbs was the author of "*An account of the countries adjoining Hudson's Bay, and of certain voyages thither* [which he made] *and of the probability of a North-west passage*, (1741).

† The letters patent appointing Sieur de la Roche, January 12, 1598, make him Lieutenant-General of Canada, Hochelaga, Newfoundland, Labrador, the River of the Great Bay, of Mozambique, and the adjacent lands, provinces, and rivers, which are of great length and extent of country, not inhabited by the subjects of any Christian Prince. . . . Provided always that it shall not embrace any country occupied and under the subjection of any Christian Princes and potentates, our friends, allies and confederates.

‡ Provision in favour of Sieur de Lauzon, appointing him Governor and Lieutenant of the King, January 17, 1651, "over the whole extent of the River St. Lawrence, in New France, the isles and lands adjacent, on both sides of the said river and the other rivers that discharge therein, as far as its mouth, taking in ten



The extent of the country here mentioned is repeated in the *Lettres Patentes du Gouverneur de la Nouvelle France, en faveur du Vicomte d'Argenson, du 26me Janvier, 1657*; in the *Lettres Patentes du Roi, qui etablissent le Sieur de Mezy, Gouverneur pour trois ans dans l'étendue du fleuve Saint Laurent dans la Nouvelle France, à la place du Sieur du Bois d'Avangour appelé par sa Majesté, du premier Mai, 1663*.\*

The commission of M. Talon, of March 23, 1665, makes him "Intendant de la Justice, Police et Finances, en Canada, Acadie, Terre-neuve, et autres pays de la France Septentrionale."†

The expression, depuis le Nord du Canada jusques à la Virginie, is used in the commission of M. le Barrois, April 8, 1685, as agent-general for the *Compagnie des Indes Occidentales*.

The description in the prolongation de la Commission de Gouverneur et Lieutenant-Général à Quebec, accordée par le Roi au Sieur Huault de Montmagny, du 6me Juin, 1685, makes him Lieutenant-General representing the person of the sovereign at Quebec, et dans les Provinces arrosées du fleuve Saint Laurent et des autres rivières qui se déchargent en icelui, et lieu qui en dépendent en la Nouvelle France.‡

The commission of M. de Bouteroue, April 8, 1688, Intendant, is in the same terms as that of M. Talon.

The commission of M. Bigot, January 1st, 1748, makes him Intendant of Justice, Police, Finances, and Marine, "en nôtre pays de Canada, la Louisianne, et dans toutes les terres et isles dépendantes de la Nouvelle France."§

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[The commission of Henry Ellis, Esquire, Clerk of the Council, Commissary or Steward-General of Provisions and Stores, and Clerk of the Enrolments, dated April 30, 1763, contains the word Canada instead of Province of Quebec.]

*George the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. To all whom these presents shall come,*

Greeting :

Know ye that We, reposing especial trust and confidence in the faithfulness, experience, and ability of Our trusty and well-beloved Henry Ellis, Esquire, of Our special grace, certain knowledge and mere motion, have given and granted, and by these presents for Us, Our heirs and successors, do give and grant unto the said Henry Ellis, the offices and places of Secretary and Clerk of the Council of Our Province of Canada, and of Commissary or Steward-General of all such provisions and stores as are or shall be from time to time provided and sent for the forces of Us, Our heirs or successors, in Our said Province, and Clerk for the inrolling and registering all deeds and conveyances made and passed in that Our Province, and also all bills of sale and letters patent, or other acts or matters usually inrolled, or which by the laws of that Province shall be directed to be inrolled.

And him, the said Henry Ellis, Secretary and Clerk of the Council of Our said Province of Canada, and Commissary or Steward-General of all such provisions and stores as are or shall be, from time to time, provided and sent for the forces of Us, Our heirs or successors, in Our said Province of Canada, and Clerk of Inrolments, for inrolling and registering of all deeds and conveyances made and passed in that Our Province, and also all bills of sale and letters patent, or other acts or matters usually inrolled, or which by

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leagues near to Miscou, on the South, and on the north as far as the lands of the said country extend (du nord, autant s'étendent les terres dudit pays), in the same manner that it was held and exercised by Sieur Daillebout."—*Commissions des Gouverneurs et Intendants*, T. II.

\* Letters Patent appointing Sieur de Mezy, Governor for three years over the country traversed by the St. Lawrence, (dans l'étendue du fleuve St. Laurent) in New France, in the place of Sieur du Bois d'Avangour, recalled by the King on the 1st May, 1663.

† Intendant of Justice, Police and Finances, in Canada, Acadie, Newfoundland, and other countries of Northern France.

‡ And in the Provinces watered by the St. Lawrence, and the rivers which discharge into it, and the places that depend thereon in New France.

§ In our country of Canada, Louisiana, and in all the lands and islands dependent on New France.

the laws of that Our Province shall be directed to be inrolled, We do make, ordain and constitute by these presents.

[Commissions of Justices of the Peace, under the Public Seal of the Province, for the District of Montreal or Quebec, as the case might be, contained the words "in Our Province of Quebec."]

COMMISSION OF THE PROVOST-MARSHAL, 1763 (Extract).

*George the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. To all whom these presents shall come,*

Greeting :

Know ye, that We, for divers good causes and considerations Us hereunto moving, of Our special grace, certain knowledge and mere motion, have given and granted, and by these presents for Us, Our heirs and successors, do give and grant unto our trusty and well-beloved Nicholas Turner, Esq., the office of Provost-Marshal of Our said Province of Canada, and him the said Nicholas Turner, Provost-Marshal of our said Province of Canada, We do, for Us, Our heirs and successors, make, ordain, and constitute by these presents, &c.

Dated September 23, 1763.

DESCRIPTION IN ENGLISH COMMISSIONS AFTER THE CONQUEST, 1763.

The commission of Jas. Murray, Esq., Captain-General and Governor-in-Chief of the Province of Quebec, is dated Nov. 21, 1763, recorded at the Treasury Chambers next day, and in the Registrar's office in Quebec, June 7, 1766 (Extract) :

*George the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth, to our trusty and well-beloved James Murray, Esquire,*

Greeting :

We, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said James Murray, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said James Murray, to be Our Captain-General and Governor-in-Chief in and over Our Province of Quebec, in America ; bounded on the Labrador coast by the River St. John, and from thence by a line drawn from the head of that river, through Lake St. John, to the south end of Lake Nipissim, from whence the said line crossing the River St. Lawrence and the Lake Champlain in forty-five degrees of northern latitude, passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea ; and also along the north coast of the Baye des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosieas ; and from thence crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John.

COMMISSION OF VICE-ADMIRAL, 1764 (Extract).

*George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, to our beloved James Murray, Esquire, Our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America,*

Greeting :

We, confiding very much in your fidelity, care, and circumspection in this behalf, do by these presents, which are to continue during Our pleasure only, constitute and depute



you, the said James Murray, Esq., Our Captain-General and Governor-in-Chief aforesaid, Our Vice-Admiral, Commissary, and Deputy in the office of Vice-Admiralty in Our Province of Quebec aforesaid, and territories thereon depending, and in the maritime parts of the same and thereto adjoining whatsoever; with power of taking and receiving all and every the fees, profits, advantages, emoluments, commodities, and appurtenances whatsoever due and belonging to the said office of Vice-Admiral, Commissary, and Deputy, in Our said Province of Quebec, and territories depending thereon, and maritime ports of the same and adjoining to them whatsoever, according to the ordinances and Statutes of Our High Court of Admiralty in England.

And We do hereby remit and grant unto you the aforesaid James Murray, Esq., Our power and authority in and throughout Our Province of Quebec aforementioned, and territories thereof, and maritime ports whatsoever of the same and thereto adjacent, and also throughout all and every the sea-shores, public streams, ports, fresh water rivers, creeks and arms as well of the sea as of the rivers and coasts whatsoever of our said Province of Quebec, and territories dependent thereon, and maritime ports whatsoever of the same and thereto adjacent, as well within liberties and franchises as without.

[This commission bears date March 19, 1764. The expression "Our Province of Quebec and territories thereon depending," or "territories depending on the same," or "territories dependent thereon," occurs seven or eight times.]

The first commission of Guy Carleton, Esquire, as Lieutenant-Governor of the Province of Quebec, dated April 7, 1766, has no other description than is contained in the words "Province of Quebec in America."

In his appointment of Francis Maseres as Attorney-General, the attesting clause of the commission reads: "Witness Our trusty and well-beloved the Honourable Guy Carleton, Esquire, our Lieutenant-Governor and Commander-in-Chief in and over our said Province of Quebec, and the *territories depending thereon in America*, at our Castle of St. Lewis, in our City of Quebec, the twenty-fifth day of September, in the year of our Lord one thousand seven hundred and sixty-six, and in the sixth year of our reign.

(Signed)

GUY (L. S.) CARLETON.

DESCRIPTION IN THE FIRST COMMISSION OF SIR GUY CARLETON AS GOVERNOR UNDER  
THE QUEBEC ACT, 1775.

"Our Province of Quebec, in America, comprehending all the territories, islands and countries in North America, bounded by a line from the Bay of Chaleurs along the high lands which divide the rivers that empty into the St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude on the eastern bank of the River Connecticut, keeping the same latitude directly west through the Lake Champlain, until in the same latitude it meets with the River St. Lawrence; from thence up the eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province until the said western boundary strikes the Ohio; but in case the said bank of the said Lake shall not be found to be so intersected, then following the said bank until it shall arrive at the point of the said bank which shall be nearest to the north-western angle of the Province of Pennsylvania, and thence by a right line to the said north-western angle of the said Province; thence along the western boundary of the said Province until it strikes the River Ohio, and along the said bank of the said river westwards to the banks of the Mississippi, and northward along the

eastern bank of the said river to the southern boundary of the territory granted to the merchant adventurers of England trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the tenth of February, 1763, been made part of the Government of Newfoundland as aforesaid."

DESCRIPTION IN THE SECOND COMMISSION OF CAPT.-GENERAL AND GOVERNOR-IN-CHIEF TO HIS EXCELLENCY SIR GUY CARLETON, K.B., NOW LORD DORCHESTER, DATED 22ND APRIL, 1786 (after treaty with the United States).

"—have thought fit to appoint you, the said Guy Carleton to be Our Captain-General and Governor-in-Chief in and over Our Province of Quebec, in America, comprehending all our territories, islands and countries in North America; bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westmost head of Connecticut River; thence down along the middle of that river to the 45th degree of north latitude; from thence by a line due west on the said latitude until it strikes the River Iroquois or Cataragui; thence along the middle of the said river into Lake Ontario; through the middle of the said Lake until it strikes the communication by water between that Lake and Lake Erie; through the middle of said Lake until it arrives at the water communication between that Lake and Lake Huron; thence through the middle of said Lake to the water communication between that Lake and Lake Superior; thence through Lake Superior northward to the Isles Royal and Philippeaux to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods; thence through the said Lake to the most north-western point thereof; and from thence on a due west course to the River Mississippi; and northward to the southern boundary of the territory granted to the merchant adventurers of England trading to Hudson's Bay."

#### OTHER DESCRIPTIONS.

L'Escarbot, an advocate of Paris, in his "*Histoire de la Nouvelle France*," published, in 1609, defines the boundaries of the French possessions in North America as extending "on the West to the Pacific Ocean, on the South to the Spanish West Indies, on the East to the North Atlantic, and on the North to the Frozen Sea."\*

Baron La Hontan, whose "*Memoirs of Travels in North America*" embraced the decade between 1683 and 1693, says: "All the world knows that Canada reaches from the 39th to the 65th degree of North Latitude, that is from the South of Lake Erie to the North side of Hudson's Bay, and from the 284th to the 336th degree of longitude, viz., from the River Mississippi to Cape Race. . . . *Were I to reckon in all the countries that lie to the north-west of Canada I should find it larger than Europe; but I confine myself to what is discovered, known and owned—I mean to the countries in which they have forts, magazines, missionaries and small settlements.*"†

Captain Vetch (a British officer, and at one time Governor of Nova Scotia,) writing in 1708, says: "As to the situation of the country possessed by the French in North America, and commonly all comprehended under the prevailing name of Canada, the seat

\* *Histoire de la Nouvelle France*. Mons L'Escarbot.

† Pinkerton's Collection, vol xiii.



and residence of their Governor-General being upon the place properly so called, its situation is from about 54° of north latitude to the eastward of Port Nelson, in the country of the Escimoes, extending itself all the way south-west to the mouth of the Mississippi River, which falls into the Bay of Appalachio, in the great Bay of Mexico, about the latitude of 28° 30', comprehending as it goes, their part of Newfoundland, the Island of St. Peter, Acadia or Nova Scotia, which borders on the British Province of New Hampshire, whose boundary to the eastward is the little River St. Croy (as the French allege.)"

Extract from "A description of New France; or the French Dominions in North America." By T. Jefferys, Geographer to His Majesty, 1761. page 1. "Canada, according to the English accounts, is bounded on the North by the Highlands which separates it from the country about Hudson's Bay, Labrador or New Britain, and the country of the Eskimeaux, and the Christinaux; on the East, by the River St. Lawrence; and on the South, by the Outawai River, the country of the Six Nations, and Louisiana; its limits towards the West, extending over countries and nations hitherto undiscovered."

#### BOUNDARY LINE BETWEEN NEW YORK AND CANADA.

[An order of the King in Council, confirming the boundary line between the Provinces of New York and Quebec, fixed by Sir Henry Moore, the Governor of New York, and Brigadier-General Carleton, Lieutenant-Governor of Quebec, at a meeting held for that purpose; and regulating the claims made by His Majesty's new Canadian subjects to lands situated on the south side of that line:]

At the Court of St. James's, the 12th day of August, 1768; Present the King's Most Excellent Majesty, Duke of Grafton, Duke of Rutland, Duke of Queensbury, Marquis of Granby, Earl of Litchfield, Earl of Hillsborough, Earl of Shelburne, Viscount Weymouth, Viscount Falmouth, Viscount Barrington, Viscount Villiers, Lord North, James Stewart McKenzie, Esq., Thomas Hartley, Esq., Sir Edward Hawke.

Whereas there was this day read at the Board a report from the Right Honourable the Lords of the Committee of Council for Plantation affairs, dated the ninth of this instant, upon considering a report made by the Lords Commissioners for Trade and Plantations, upon an extract of a letter from Sir Henry Moore, Governor of New York, to the Earl of Shelburne, dated the 16th January last, relative to the settling of the boundary line between that Province and Quebec; by which report it appears that it having been mutually agreed upon between Sir Henry Moore and the Commander-in-Chief of the Province of Quebec, at a meeting for that purpose appointed, that the line of division between these Provinces should be fixed at the 45th degree of north latitude, conformable to the limits laid down in His Majesty's proclamation of October, 1763; and it having been ascertained and determined by proper observations where the said line would pass, it is therefore proposed that these proceedings above stated should be confirmed by His Majesty.

His Majesty, taking the said report into consideration, was pleased, with the advice of his Privy Council, to approve thereof, and doth hereby confirm the said proceedings above stated, and order that the said line of division be run out and continued as far as each province respectively extends.

Provided that nothing herein contained shall extend to affect the properties of His Majesty's new subjects having possessions under proper titles on those parts of the lands on the south side of the line, the dominion of which was not disputed on the part of the Crown of Great Britain.

And provided also, that this determination shall not operate wholly to deprive His Majesty's new subjects of such concessions on the south side of the said line, on which they may have made actual settlement and improvement, although the lands may have been disputed by Great Britain; but that such possessors shall be entitled to so much of the said concessions as shall be proportioned to their improvements, at the rate of fifty

acres for every three acres of improvement, provided they take out grants for the same under the seal of the Province of New York, subject to the usual quit rents.

And provided, also, that the grant to no one person shall exceed twenty thousand acres.

And the governors or commanders-in-chief of His Majesty's said Provinces of New York and Quebec for the time being, and all others whom it may concern, are to take notice of His Majesty's pleasure hereby signified, and govern themselves accordingly.

(Signed) STEPH. COTTRELL.

## REMARKS ON MAPS OF THE DISPUTED TERRITORY.

*Being an extract from a Report on the Unsettled Boundaries of Ontario,*

BY CHARLES LINDSEY, ESQ.

A map drawn by Mr. Thomas Devine, and published by order of M. Cauchon, Commissioner of Crown Lands, in 1857, had transferred to it two lines which purport to give the boundary between Canada and Hudson's Bay. One is marked "Boundary of Hudson's Bay after the Treaty of Utrecht, according to maps published at Paris, 1720, 1739, and 1771." This line sweeps round James' Bay at no great distance from its head, above the 50° of latitude, crossing the rivers that run into the Bay much nearer their mouths than their source. After passing Moose River in its westward course, it deflects north-westward with a general conformity to the indentations of the coast till it reaches Nelson River, whence it is drawn nearly due north towards the mouth of the Churchill River. Everywhere it crosses the rivers a considerable distance from their sources, and encloses only a narrow belt along the shores of the Bay. My reason for thinking that it is not the true, or not the entire, line of boundary is, that it does not include the shore of the Bay above the Churchill River. The great object of England, throughout the whole negotiation of the Peace of Utrecht, was to obtain the whole Bay and Straits of Hudson. But this line would probably include quite as much as France was in a position to restore to England; for she could restore only what she had actually possessed. This line may express the French understanding of what France was bound to restore to England. It may even be identical with the line marked on the map by the French plenipotentiaries; but it is evident that England might reasonably object that it did not go far enough north; and that, by the Treaty, she was entitled to the shores of the Bay above as well as below. The other line is marked "Northern boundary of Canada at the conquest of Canada, according to British geographers." It commences below James' Bay, nearly as far south as the 48th degree; leaving the sources of the three branches of the Moose River to the south on its westward course, and, passing north of Lake Nipigon, it cuts off a river of the southern watershed which is represented as running into that lake from the north; it crosses what appears to be the height of land between Lake Savon and Lake St. Joseph, on the north-east, and Lake Sel (marked Lake Sal) on the south-west; from this point, its general course is north-westward, taking mainly the same direction as the other line, at about twice its distance from the coast, from which it runs about twice as far, on the west, as its course is east of Lake Winnipeg; and is carried northward a little above Seal River. It would be idle to speculate on the subject; but it would not be surprising if these two lines were found to occupy nearly the same position as those marked by the plenipotentiaries at Utrecht. I have seen nothing to lead to the conclusion that the English had extended west or south of this line before the cession of Canada.

We know that the French and English plenipotentiaries at Utrecht did not agree on a common line as drawn upon a map: but the difference between the two lines was left for adjustment afterwards. The mean or true line of the Treaty of Utrecht was never authoritatively laid down on any map. Between that line, suppose it were found, and the boundary line of Hudson's Bay at the cession of Canada, there would be no difference; for the boundary was the same at the two epochs. It is a manifest inaccuracy to lay



down two separate lines to represent the boundaries of the two periods. But the two lines reproduced by Mr. Devine are confessedly one French and the other English.

I do not refer to this map to show the opinion of the Government of the late Province of Canada, or of its successor, if it has one. The map was prepared for the information of the Government, and no more binds the Government than any statement or opinion in this report could be held to bind the Government of Ontario. But the map may be referred to as illustrating the historical geography of Hudson's Bay.

The author of *l'Itinéraire des Français dans la Louisiane* makes the unknown lands of Canada extend to Hudson's Bay, at the time of the grant of Louisiana to Crozat, in 1712.\* The country towards Hudson's Bay was not unknown to the French in the same way that the country granted by Charles II. to the Hudson's Bay Company was unknown to the English in 1670. On the contrary, the French were well acquainted with the country on the west and south coast of Hudson's Bay, where long before they had erected establishments and carried on trade. Part of the intermediate country, north of the great lakes, was little or not at all known by them. The author of *l'Itinéraire* had borrowed the above description from Raynal, whose work was composed after the French dominion in Canada had ceased, and when there could be no national object in extending the limits of Canada beyond what the author believed to be its true bounds. His description, however, was not strictly accurate, as he would have learnt if he had paid due attention to the Treaty of Utrecht. It is surprising to note the complacent facility with which errors of this kind are repeated by writers who transcribe and compile without reflection and critical investigation. I notice this error the more readily, because it was relied on by the able counsel by whom Reinhard was defended, as a true description of the bounds of Canada on the north.

De Lisle's *Carte de La Louisiane*, as published in 1718, does not extend that Province north of the 46° of north latitude; and it only shows the part of Canada which reached upwards to that parallel. His *Carte du Canada ou de la Nouvelle France*, of the date 1703, may be taken as a fair representation of the geographical knowledge of the country possessed by the French at that date. It is very inaccurate in many particulars, where it undertakes to delineate the interior country west of Hudson's Bay. On the shores of the Bay, as far north as Nelson River, it is tolerably accurate. There we find Fort Bourbon, Fort de Neuve-Savane, Fort Ste. Anne or Quichichou on the west; and Fort St. Louis on Albany River, and Fort Rupert on the river of that name. But the delineations at any considerable distance west of the Bay are evidently based on inaccurate information. There is a large lake on the south side of Ste. Thérèse River—the same of which Jérémie wrote—which we look for in vain on modern maps, and it is not mentioned by Franklin, who went up this river in his overland journey, in 1819. Lake Nipegon is passably well figured by the French Geographer; but there is a still larger lake—marked Lac de Christineaux—represented as connecting with it directly north, which has no existence. It was probably intended for Rainy Lake, as it connects, by means of a river running west, with the Lac des Assenipouils, which latter also connects, correctly enough, with the Nelson River, and which is intended to represent Lake Winnipeg. The position of these lakes must have been laid down from inaccurate information derived by traders from the Indians. West of Lake Winnipeg the whole country is nearly a blank; and what is not blank is not accurate. The only information which the map purports to give north of Nelson River, on the west coast, is a small portion of the Churchill, marked *R. de Munck ou R. Dunois, ou R. Churchill*, situated a little above Pointe Hebrin, with Cape Grimington, many hundreds of miles out of the position where geographers have long concurred in placing it.† Near the north-west corner of the Bay are the words, *Port de Jean Munck, où il hiverna l'an 1619*; a date which, if correct, negatives the claim of the Danes to be the discoverers of the Bay. The line drawn to denote

\* La Louisiane est une vaste contrée de l'Amérique Septentrionale, bornée au midi par la mer, au levant par la Caroline, au touchant par le Nouveau Mexique, au nord par cette portion du Canada dont les terres inconnues doivent s'étendre jusqu'à la Baie d'Hudson.

† The French geographer places this cape on the west side of Hudson's Bay, instead of the Labrador coast. Capt. Grimington, who commanded an English expedition to Hudson's Bay, in 1793, no doubt gave his name to the cape.

the *Hauteurs des Terres*, between the southern and northern watersheds, shows, for the time, surprising geographical knowledge of the country as far west as Lake Nipegon; from that point the line is inaccurately drawn to the southern end of Lake Winnipeg. Its latitude of the northernmost point of Lake Superior is only about seventeen minutes out of the true position.

De Lisle was a member of the Royal Academy of Sciences, and first geographer to the King. What he did not know of the country, it is probable no Frenchman or Canadian colonist knew. From the account of Jérémie, who had the best means perhaps of any Frenchman of obtaining a knowledge of the geography of the country west of Hudson's Bay, up to 1713, it does not appear that the French had much increased their knowledge of the geography of that region, at the time France restored to England whatever that Crown possessed on the shores of the Bay, by the Treaty of Utrecht.

English geographers were not nearly so well acquainted with this northern country. Herman Moll, in 1708, places the north side of Lake Superior in  $51^{\circ} 30'$  an error of two degrees. He places Lake Nipegon as far north as the mouth of Nelson River, within about a degree; an error, if Arrowsmith's map be reliable, of six degrees.\* Nelson River has nearly the shape of a V, and it only extends about half as far west as Lake Nipegon, just north of which it would pass if produced due west. Though we cannot accuse Moll of plagiarizing De Lisle, he repeats the error of the French geographer in connecting Lake Nipegon on the north with a lake which he calls Assenipovals, by means of a river. West of this lake there is another, intersected in the centre by the  $60^{\circ}$  of latitude; all the rest is a blank, north of the source of the Mississippi, and west of Lake Nipegon, marked "parts unknown." The special importance of this map—for it has no official character—lies in the fact that in 1708 English geographers did not know that the Nelson River connected with Lake Winnipeg on the west. Port Nelson was then in the hands of the French, and it remained in their possession till after the treaty of Utrecht; Jérémie being in command, under a commission from the King of France, in the interim. What the English did not know of the geography of this river in 1708, they had no opportunity of learning during the next five years. They could have had restored to them only what they had previously possessed; and they could not be said to have possessed a country of which they had no knowledge, and on which no British subjects had ever set foot. This map was published in Oldmixon's *British Empire in America*, in which the account of Hudson's Bay appears to have been chiefly prepared from materials in the exclusive possession of the Company.

From the map attached to Wayne's *General History of the British Empire in America*, published in 1770, English geographers do not appear to have much advanced in their knowledge of the country. Albany River is here represented as having a general course from west to east, and as uniting Christineaux Lake, which occupies the same relative position as on Moll's map, with James' Bay. This author distinctly admits the ignorance which prevailed in England of the geography of Canada. "The extent of the boundaries of Canada," he says, "are variously fixed by the French geographers, and perhaps still remain undiscovered, as well as the source of the St. Lawrence river, which runs through the country, and is pretended to be derived from remote north-western lakes as yet unknown to Europeans." They had long been known to the French.

Thomas Kitchen, "Hydrographer to His Majesty," contributes a map to Justamond's translation of Raynal's *East and West Indies* (edition of 1783), in which he faithfully gives the old boundaries of the Province of Quebec, eleven years after they had been obliterated by the Quebec Act.

The map in Carver's *Travels through the Interior Parts of North America*, 1779, connects York River, as the Nelson River is called, with Bourbon Lake, which again is connected with and placed immediately north of Lake Quinipique. The two lakes were probably intended to represent the southern and northern parts of Lake Winnipeg. This

\* Though Arrowsmith may here be relied on for the purpose of this correction, even that celebrated name is not always a guarantee of accuracy. "It may appear astonishing," says Humboldt, "that the most recent map which we are analysing, and which bears the name of a justly celebrated author, should be the falsest of all. I speak of the large English map which has for title, *Chart of the West Indies and Spanish Dominions in North America*, by Arrowsmith, published in June, 1803."



map contains a line of "Proposed Limits of Hudson's Bay," drawn from Cape Grinington (which is not so marked) on the Labrador coast to Lake Mistassin, and passing south of the south-eastern point of James' Bay, ends at or just above the most north-western point of the Lake of the Woods. By whom was this line of division "proposed?" We know that, as far west as Lake Mistassin, it is coincident with the line once proposed by the Hudson's Bay Company. By whom, if not by the Company, could the proposal have been made? There were, at this time, only the British Government and the Company by whom such a proposal could be made. The Government of Canada was a Governor and Council, whose policy was directed in England. If such a line had been proposed by either, it should be possible to obtain official information of the fact, but there is no reason to suppose it would be accessible in this country.

George Alexander Cook's *Modern and Authentic System of Universal Geography*, an English work, published in the beginning of this century, describes Canada as being "situated between 45 and 52 degrees north latitude, and 61° and 81° of west longitude." The line of 52° would give Canada a part of James' Bay. There have been times when the Hudson's Bay Company offered to take less. There is no difficulty in understanding where the notion that 81° west longitude was the western boundary of Canada was derived: it was the belief that the proclamation of 1763 so placed it, and this geographer copied the old description thirty years after a new boundary had been established; a very common source of error, which shows the necessity of submitting all descriptions of this kind to a critical test before accepting them as correct. But, such is the carelessness which often marks the works of geographers, his own map places Lake Nipissing about a degree and a half east of where his description places it.

A map of the *British Dominions in North America*, in a work published in Dublin, in 1774, under the title of *A Complete History of the Late War*, contains a line which purports to give the "Bounds of Hudson's Bay by the Treaty of Utrecht." On this map the meridian lines are a degree and a quarter east of the true position; the north-westernmost corner of the Lake of the Woods being placed in 96° 30', instead of 95° 14' 38", as determined by the British and American Commissioners under the Treaty of Ghent. It was necessary to state this fact, because we shall have to refer to these meridians as they are intersected by the alleged line of boundary. This line curves round on the south side of Lake Mistassin, immediately east of which it winds suddenly north to about 50° 48' north latitude; then it returns southward and crosses the 50°, which is correctly laid down with reference to James' Bay, and continues south-west till it touches 47° 22' at the point where the 78° meridian on the map, is intersected; thence it continues due west about two degrees; from which point the 80th meridian (81° 30' true longitude); whence it takes a general course north-west till it reaches up to 50° 47' in about 92° 30' (true longitude 94°\*); whence it passes in a south-west direction the Lake of the Woods at the distance of about half a degree north of that lake. This line seems substantially to follow the dividing line of the two watersheds, though it crosses a river that runs into James' Bay more than a degree from its source; in compensation for which it crosses an imaginary river which forms a connecting link between Lake Nepigon and Lake Christianeux. The author of this map probably considered the height of land between the two watersheds to be the true dividing line of the Treaty of Utrecht; and fancied that that line of division passed north of the Lake of the Woods.

A line bearing a general resemblance to the above continued to appear on English maps till the end of the last century. A map "intended to illustrate the travels of the Duke de la Rochefoucault Lioncourt, in America," in Neuman's translation of that work, published in London in the last year of the century, while having many of the general features of the above, is not identical with it. One noticeable deviation is, that it passes north instead of south of Lake Mistassin; it descends, at the meridian of 80° to 48° 20' latitude, its lowest point; whence it takes a north-west direction till it approaches the meridian of 95° in 50° 30' latitude. It is a dotted line, like that of the northern boundary, but is not explained by any description.

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\* This is on the supposition that the assumed longitude of one place may be corrected by reference to the established longitude of another.

A map in the *History of the American War*, published in Dublin, 1779, has a line to describe the "bounds of the Hudson's Bay Company by the Treaty of Utrecht." This line rises north of latitude fifty degrees, near the meridian of sixty-eight degrees, and terminates on the west at fifty degrees latitude, north of the Lake of the Woods.

Emanuel Bowen was relied on as a geographical authority, in the trial of Reinhard. A very slight examination of his map, in *Burke's European Settlements in America*, will show that to rely on him as an authority would be blind and wilful self-deception. It does not connect Nelson River with any lake in the west, but gives, instead, an insignificant expansion near its western extremity, at about 102 degrees west longitude, as here laid down to represent its source. Lake Winnipeg has no representative. The Hayes River, which, in fact, connects with Lake Winnipeg, is made to stop short four or five degrees of the point to which the Nelson is made to extend. Assemipoli Lake is placed just above Lake Superior, and about six degrees south of Nelson River, Albany River running north-east of it. If Burke's censure of English geographers for copying servilely from the French did not fall on Bowen, the absence of plagiarism was replaced by a want of knowledge, which must prevent Bowen from being regarded as an authority, except by those who are unable to detect or correct his blunders. Bouchette copied from one of his maps, published in 1775,\* a line which pretended to denote the western boundary of Canada. Considering the low state of geographical knowledge, in England, regarding the northern part of North America, in the middle of the last century, there was some excuse for regarding Bowen as an authority then, but there was none for continuing so to regard him in 1818; and any one who should now quote his maps would give the strongest proof of his own entire unacquaintance with the subject.

Humboldt pointed out numerous errors of the geographers of New Spain, but none of them approached in grossness to many of the above. And to tell the truth, some pretentious French geographers were scarcely better informed. It may excite surprise that, after De Lisle had correctly placed the position of the North shore of Lake Superior, in 1703, any engineer of the French King, and hydrographer of the marine, should have been found, forty years later, to place it two and a half degrees too far north. Yet if we consult the map in either edition of the *Nouvelle France* of Charlevoix, we are confronted with this fact. But it is possible to possess considerable loose general geographical knowledge without having a knowledge of the position of places which may never have been determined. The author of this map takes us by a distinct line from Lake Superior to Lake Winnipeg; and with the latter lake he connects *Fleuve de l'Ouest*; at the west end of which he places the explanation: *Ici suivant le rapport des sauvages commence le flux et reflux*. The Indians, if they intended to speak of the Columbia as a tidal river, explained ill what they knew little or nothing about, and were perhaps partly misunderstood; the result of which was a very confused and hardly recognizable glimmering of truth, to be revealed by future adventurers. The Lake of the Woods is erroneously made to connect with Hudson's Bay, by Nelson River, which, under other names, is made to pass through two great lakes, to the north-east, on the way. But the geographer does not vouch for the existence of these lakes; on the contrary, he awakens the reader's scepticism by assuring him that *l'existence de ces deux grands lacs est très incertaine*. They have, in fact, no existence. Scepticism was a merit where implicit belief would have been error. This King's engineer and hydrographer of the marine had not kept himself acquainted with the official documents from Canada which, from time to time, reported the progress of discovery in the north-west.

English writers on the geography of the northern part of North America have been greatly influenced by the Hudson's Bay Company. Their very desire to get at the truth would cause them to apply for information to those who were supposed in some measure to possess exclusive means of information, but who had a strong interest in giving currency to extravagant pretensions of their own. Mr. Montgomery Martin, writing in 1849, makes the Company a present of everything on the north as far as the Arctic Ocean: a pretence which it has itself never ventured to set up. This influence of the Company on geographical literature has much increased during the last century. Up to the date of

\* The map we are here examining was published eighteen years earlier.



the conquest of Canada there were English geographers who allowed New France to extend at some points too near the Arctic Circle; and the error was reproduced by translation into other European languages.\* On the ground of discovery and occupation of contiguous territory, no nation could present a better claim than France to extend even to that latitude, above its discoveries on the Saskatchewan. Whether the writer be Jeffrey, or Montgomery Martin, or any other name that passes for authority, his loose and inaccurate statements are almost sure to furnish additional proof that no reliance can be placed on ordinary writers on geography, any more than on ordinary map-makers, in questions which affect the boundaries of contiguous British provinces or territories in North America. Geographical discoveries, occupation, treaties, executive and legislative acts, form the crucial test to which all pretensions of whatever kind must be brought.

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PROCLAMATION OF GOVERNOR M'DONELL AFTER THE HUDSON'S BAY COMPANY'S  
GRANT TO THE EARL OF SELKIRK, 1814.

Whereas the Governor and Company of Hudson's Bay have ceded to the Right Honourable Thomas, Earl of Selkirk, his heirs and successors, for ever, all that tract of land or territory bounded by a line running as follows, viz.: Beginning on the western shore of Lake Winnipic, at a point in fifty-two degrees and thirty minutes north latitude; and thence running due west to Lake Winipigashish, otherwise called Little Winnipic; then in a southerly direction through the said lake, so as to strike its western shore in latitude fifty-two degrees; then due west to the place where the parallel of fifty-two degrees north latitude intersects the Western branch of Red River, otherwise called Assiniboine; then due south from that point of intersection to the height of land which separates the waters running into Hudson's Bay from those of the Missouri and Mississippi Rivers; then in an easterly direction along the height of land to the source of the River Winnipic (meaning by such last-named river the principal branch of the waters which unite in the Lake Saginagas,) thence along the main stream of those waters and the middle of the several lakes through which they pass, to the mouth of the Winnipic river; and thence in a northerly direction through the middle of the Lake Winnipic, to the place of beginning: which territory is called Ossiniboia, and of which I, the undersigned, have been duly appointed Governor:

And whereas, the welfare of the families at present forming settlements on the Red River, within the said territory, with those on the way to it, passing the winter at York and Churchill Forts in Hudson's Bay, as also those who are expected to arrive next autumn, renders it a necessary and indispensable part of my duty to provide for their support in the yet uncultivated state of the country; the ordinary resources derived from the buffalo and other wild animals hunted within the territory are not deemed more than adequate for the requisite supply: Wherefore, it is hereby ordered, that no persons trading in furs or provisions within the territory, for the Honourable Hudson's Bay Company or the North-west Company, or any individual or unconnected traders or persons

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\* An English work translated into Italian, in the year in which Canada changed owners, describes New France as extending northward, at some points, to the 65°:—"Canada o Nuova Francia, colonia nell' America settentrionale appartenente ai Francesi. Le frontiere di questo vasto paese sono dai Filosofi variamente fissate, estendendole alcuni da tutta la Florida fino all' estremità settentrionale di America, o fia dia 33. ai 65. gradi di lat. sett. benché il Canada, propriamente detto, sia solamente una piccola Provincia di tutto questo tratto, situata a Mezzogiorno, e Levante del Fiume S. Lorenzo, ed a Levante della sua imboccatura. Altri lo fanno consistere a Tramontano con la Terra de Labrador, o Nuovo Brettagna, a Levante col mar Settentrionale, e la Nuova Inghilterra ec. a Mezzogiorno con la Florida, et a Ponente col Nuovo Messico, e le parti Settentrionali di esso non conoscente. In conseguenza di che si estenderebbe dia 25. ai 53. gradi di lat. sett. e dai 76. ai 93. di long. occ. Ma la sua maggior estensione si prende comunement da Libeccio a Greco, cioè dalla Provincia di Padona nella Nuova Spagna, fino a Capo Charles vicino alla Baja di S. Lorenzo, che si computa circa a 900 leghe. Il Baron di la Hontan la sa solamente arrivare dia 39. ai 65 gradi di latitudine, cioè a dire dalla parte meridionale del lago Erio alla parte Settentrionale della Baja d'Hudson, ed in longitudine dal Fiume Mississippi a Capo Raze in Terra Nuova: ma è certo secondo le più recenti osservazioni pubblicate da M. Bellin, che la Provincia della Luisiana (secondo questo geografo Francese) si dee estendere un gran numero di gradi più verso Ponente dal luogo dove scorre il Fiume sopradefinito."—*Il Gazetteiere Americano, tradutto dall' Inglese*, 1763.

whatever, shall take out any provisions, either of flesh, fish, grain or vegetables procured or raised within the said territory, by water or land carriage, for one twelvemonth from the date hereof, save and except what may be judged necessary for the trading parties at this present time within the territory to carry them to their respective destinations, and who may on due application to me obtain a license for the same. The provisions procured and raised as above shall be taken for the use of the colony ; and that no loss may accrue to the parties concerned, they will be paid for by British bills at the customary rates. And be it further made known, that whosoever shall be detected in attempting to convey out, or shall aid or assist in carrying out, or attempting to carry out, any provisions prohibited as above, either by water or land, shall be taken into custody, and prosecuted as the laws in such cases direct ; and the provisions so taken, as well as any goods and chattels of what nature soever, which may be taken along with them, and also the craft, carriages and cattle instrumental in carrying away the same to any part but to the settlement on Red River, shall be forfeited.

Given under my hand at Fort Daer (Pembina), the 8th day of January, 1814.

(Signed) MILES M'DONELL, *Governor.*

By order of the Governor,

(Signed) JOHN SPENCER, *Secretary.*

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## PROPOSED EXCHANGE OF PLACES, 1700.

## ALTERNATIVES PROPOSED BY FRANCE.

*Mr. Vernon, Secretary of State, to Lord Lexington, communicating the alternatives proposed by the Ambassador of France, regarding the boundaries between France and England in America, April 29, 1700, to the Board of Trade and Plantations.*

MY LORD,—Having received the alternative from the French Ambassador, I send your lordship a copy of it, that it may be considered at your board by Wednesday next.

I am, my Lord, &c.,  
(Signed)

JA. VERNON.

“Par la première alternative, je propose que la France garde le Fort Bourbon et l’Angleterre celui de Chichitouan, ayant de part et d’autre pour limites entre les deux nations de ce côté, le ——— qui est justement à moitié chemin entre les deux forts susdits, et en ce cas là les limites de la France, du côté de l’Acadie, seroient restraints à la Rivière Saint George.

“Par la deuxième alternative je propose que le fort de Chichitouan reste à la France, et le Fort de Bourbon à l’Angleterre, ayant pour limites ce même endroit, dont je viens de parler ci-dessus ; mais en ce cas l’on demande que les limites de la France, du côté de l’Acadie, s’étendent jusqu’à la Rivière Kenibeki.

“Quant à la pêche, comme tout commerce est défendu entre les deux nations dans les colonies, et que sous le prétexte de venir pêcher on ne manqueroit pas de venir trafiquer en contrabande, l’on croit que, suivant l’usage déjà établi en ces pays là, il faut que la pêche soit défendue hors de la portée de la vue ; mais comme il survient toujours des incidens quant il n’y a point une distance déterminée, on demande qu’elle soit fixée à huit lieues, et que par le même raison et crainte des mêmes inconvénients qu’on vient d’exposer, les isles que se trouveront comprises dans cet espace là appartiennent à celle des deux nations sur le côté dans laquelle elles se trouveront.\*

## OBSERVATIONS OF THE BOARD OF TRADE AND PLANTATIONS ON THE ABOVE.

What the interest of the Hudson Bay Company may be in keeping Fort Chichitouan, alias Fort Albany, or exchanging it for fort Bourbon, alias York, they themselves can best determine.

\* \* \* \* \*

The proposal for settling limits between the English and French in Hudson’s Bay is groundless ; for by the late Treaty of Peace, Art. 8, the only right reserved to the French

\* By the first alternative, I propose that France keep Fort Bourbon, and England that of Chichitouan having for limits between the two nations in that quarter the ———, which is exactly half-way between the two Forts ; and in that case, the limits of France, on the side of Acadie, shall be restricted to the River St. George.

By the second alternative, I propose that Fort Chichitouan shall remain with France, and that of Bourbon with England, having for limits the same place of which I spoke above ; but in that case I demand that the limits of France, on the side of Acadie, should extend to the River Kenebec.

As to the fishery, as all commerce between the colonies of the two nations is forbidden, and as under the pretext of fishing a contraband trade would be sure to be carried on, it is thought, according to the usage established in that country, the fishery should be prevented as far as the eye can reach ; but as difficulties always arise when a determined distance is not agreed upon, it is proposed to fix it at eight leagues, and that for the same reason, and for fear of the same inconvenience, the islands which are found comprised within this space should belong to whichever of the two nations on the shores of which they are situated.

in Hudson's Bay is in relation to those places which were taken from the English by the French during the peace which preceded the late war, and retaken from them by the English during the said war, which cannot imply any extent of territory more than the places so taken and possessed ; and the Hudson's Bay Company challenging an undoubted right to the whole Bay, antecedent to any pretence of the French, it is necessary they be consulted before any concession of territories be made to the French in those parts.

\* \* \* \* \*

(Signed)

THOMAS HILL.

Plantation Office, Whitehall,  
July 12, 1700.

## NEGOTIATIONS FOR THE PEACE OF UTRECHT.

### PRELIMINARY DEMANDS FOR GREAT BRITAIN.

*April, 1711.*

Newfoundland and the Bay of Hudson shall be entirely restored to the English. Great Britain and France shall respectively keep and possess all the countries, dominions, and territories in North America which each of these nations shall possess at the time that the ratification of this treaty shall be published in those parts of the world.

### REPLY OF THE FRENCH KING.

La discussion de cet article sera remise aux conférences générales de la paix ; bien entendu que la faculté de pêcher et de secher la nolu (*sic*) sur l'Isle de Terre-neuve, sera réservée aux François.\*

### GENERAL PLAN OF PEACE FOR GREAT BRITAIN.

(4.) The King [of the French] will give up the Province of Acadia, with the Town of Port Royal and its dependencies, to Great Britain, as also Hudson's Straits and Bay.

(5.) In the countries of North America, ceded to Great Britain, the French shall be at liberty to withdraw their effects, as also His Majesty to withdraw the cannon and warlike stores.

D. England demands that the town of Placentia remain in its present state.

That the cannon and warlike stores in Hudson's Bay remain for England.

R. His Majesty offers to let the fortifications of Placentia remain as they are, upon giving up that place to England ; to consent to the demand made of the cannon in Hudson's Bay, and, besides, to cede the Island of St. Bartholomew ; to give up even the right to fish and dry cod on the coast of Newfoundland, if the English will restore Acadia ; for these new concessions proposed as an equivalent.

In this case, His Majesty consents that the river St. George should be the boundary of Acadia, as England insists.

Should the plenipotentiaries of that Crown refuse to enter into any expedient for the restitution of Acadia, the King, rather than break off the negotiation, will comply with their demands already made ; that is to say, to give up Placentia fortified, and the cannon in Hudson's Bay ; it being well understood that the offer to cede the Islands of St.

\* The discussion of this article shall be referred to the general conferences of the peace, provided the liberty of the fishing and drying of cod fish upon the Isle of Newfoundland be reserved to the French.



Martin and St. Bartholomew, and that of the foregoing right to fish and dry cod upon the coast of Newfoundland, are also to be considered as if they had never been made.

(6.) After the peace, Commissioners shall be appointed on both sides to ascertain, within the compass of a year, the boundaries of Canada, or New France, on one side, and of Acadia and the land of Hudson's Bay on the other, and to settle, in a friendly manner, all just and reasonable recompenses insisted upon on both sides for injuries done prejudicial to the rights of peace and war.

(7.) The boundaries being once settled, the subjects of both Crowns shall be reciprocally prohibited from passing the same, whether by sea or land; as also from disturbing the trade of the subjects of each nation, and molesting the Indian nations, allies or subjects of the Crown.

Mesnager, the French Ambassador, gave in this answer, with others, on the 27th Sept. (Oct. 8, N.S.), 1711, promising, in the name of his said Majesty, that the said answers shall be looked upon as conditions that he agrees to grant, of which the articles shall be reduced into the ordinary form of treaties, and explained, after the most clear and intelligent manner, to the common satisfaction of France and Great Britain; and this in case of the signing of the treaty of the general peace.

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#### REPORT OF THE FRENCH PLENIPOTENTIARIES TO THE KING.

*Extract from the account given by the French Plenipotentiaries to Louis XIV. in their despatch of April 18, 1712.*

Nous avons fait tous nos efforts pour régagner l'Acadie, ou du moins conserver Terre-neuve, mais il nous a été absolument impossible d'en venir à bout. Ils nous ont protesté cent fois qu'ils avaient ordre exprès de tout rompre plutôt que de se relâcher sur l'un et sur l'autre, aussi bien que sur le détroit de la Baie d'Hudson, ou ils prétendent même que tout le canon leur demeure; nous ne les en aurions pas cru sur parole si le Sieur Gautier ne nous avait confirmé la même chose.

Comte de Pontchartrain remarked on the project of the English that it would have to be considered whether the savages were subjects; if so, they could not pass the limits that would be fixed; if not, there was no right to make any rule regarding them. Lord Bolingbroke agreed to "defendre aux sujets de France et d'Angleterre de passer les limites lorsqu'elles auront été fixées."\*

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#### MEMOIRE TOUCHANT L'AMERIQUE.

*St. Jean à Monsieur de Torcy, de Whitehall, ce 24me Mai, V. S., 1712. (Written in French.)*

Pour terminer toutes les disputes survenues à l'égard de l'Amerique Septentrionale, la Reine propose :

*Premièrement.* Que Sa Majeste Très-Chrétienne lui cède l'île de Terre-neuve, avec

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\* We have made every possible effort to regain Acadia, or at least to retain Newfoundland; but it has been impossible for us to conclude the matter. They [the English Plenipotentiaries] have protested a hundred times that they had express orders to break off the negotiations rather than to give way on either point, or upon that of Hudson's Bay, where they claim even the cannon; we should not have taken their word for this if le Sieur Gautier had not confirmed what they said.

Count de Pontchartrain remarked on the project of the English that it would have to be considered whether the savages were subjects; if so, they could not pass the limits that would afterwards be fixed; if not, there would be no right to make any rule regarding them. Lord Bolingbroke agreed to prohibit the subjects of France and England from passing over the boundary when it had once been established. •

Plaisance, et les fortifications, artillerie, et munitions y appartenantes, les petites îles adjacentes, et les plus proches à l'île de Terre-neuve, comme aussi Nova Scotia ou l'Acadie, selon les limites anciennes.

*Secondement.* Que les sujets de Sa Majesté Très Chrétienne continuent de pêcher et de secher leur poisson sur la partie de Terre-neuve qui s'appelle le Petit Nord, mais point dans autre partie de ladite île.

*Troisièmement.* Que les sujets de sadite Majesté puissent jouir en commun avec ceux de la Reine de l'île du Cap Breton.

*Quatrièmement.* Que les îles dans le Golphe de St. Laurent et dans l'embouchure de la rivière de ce nom, qui sont présentement occupées par les François, demeurent à Sa Majesté Très-Chrétienne, mais expressément à condition, que sadite Majesté s'engage de ne pas élever, ou permettre qu'on élève, aucune fortification dans ces îles, ou dans celle du Cap Breton. Sa Majesté la Reine s'engageant aussi de ne point fortifier, ni laisser fortifier dans les îles adjacentes et les plus proches de Terre-neuve, ni dans celle du Cap Breton.

*Cinquièmement.* La Reine insiste d'avoir le canon et les munitions de guerre dans tous les forts et places de la Baie et du Détroit de Hudson.\*

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RESPONSE DU ROI AU MÉMOIRE DE LONDRES, LE 5ME JUIN, V.S., 1712.

*Article Premier.*—Sa Majesté consent de céder à la Reine de la Grande Bretagne l'île de Terre-neuve avec la ville de Plaisance, fortifiée, mais l'artillerie et les munitions dont cette place est pourvue en seront retirées, et ne seront pas comprises dans la cession qui sera faite de la place et de l'île, car elles ne sont attachées ni à l'une ni à l'autre, et pour user d'une comparaison commune, on peut regarder l'artillerie et les munitions d'une place comme les meubles d'une maison qu'un particulier emporte lorsqu'il cède cette même maison par un contrat volontaire. Les îles adjacentes à celle de Terre-neuve, n'ont été ni demandées ni promises, par les articles signés à Londres, au mois d'Octobre dernier: comme ils ont servi de règle au commencement et au progrès de la négociation présente l'intention du Roi est de suivre exactement cette même règle, comme la plus sûre pour parvenir à la conclusion du Traité, et Sa Majesté est persuadée que la Reine de la Grande Bretagne, fidelle à sa parole, n'insistera pas sur une demande nouvelle, et qui ne se trouve pas dans la convention signée au nom de cette Princesse. Le Roi veut bien ajouter à cette convention la cession de l'Acadie selon ses anciennes limites, ainsi qu'elle est demandée par la Reine de la Grande Bretagne.

*Second.*—Les articles signés à Londres réservent aux sujets du Roi la faculté de pêcher et de sécher les morues sur l'île de Terre-neuve; une disposition faite de gré à gré ne se peut restreindre ni recevoir de changement que ceux qu'on juge reciproquement être conforme à l'utilité commune. Sur ce fondement, le Roi offre à l'Angleterre de lui laisser l'artillerie et les munitions de Plaisance, les îles adjacentes à celle de Terre-neuve, d'interdire aux François la liberté de pêcher and de sécher la morue sur la côte de cette île

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\* *St. John to the Monsieur de Torcy, Whitehall, May 24, O.S., 1712. [Written in French.]*

To terminate all the disputes which have arisen with regard to America the Queen proposes:

*Firstly.* That His Most Christian Majesty shall cede to her the Island of Newfoundland, with Plaisance, and the fortifications, artillery, and munitions thereto belonging, the small isles adjacent and the nearest to Newfoundland, as well as Nova Scotia or Acadie, according to its ancient limits.

*Secondly.* That the subjects of His Most Christian Majesty shall continue to fish and dry their fish on the part of Newfoundland called le Petit Nord, but not in any other part of the island.

*Thirdly.* That the subjects of His said Majesty shall enjoy, in common with those of the Queen, the Isle of Cape Breton.

*Fourthly.* That the isles in the Gulf of St. Lawrence and in the embouchure of the river of the same name, which are at present occupied by the French, shall remain to His Most Christian Majesty, but expressly on the condition that His said Majesty engages not to erect, or permit to be erected, any fortification in these isles or on those of Cape Breton. Her Majesty the Queen also engages not to fortify, nor to permit fortifications to be erected, in the adjacent isles which are nearest to Newfoundland, nor in those of Cape Breton.

*Fifthly.* The Queen insists on having the cannon and the munitions of war in all the forts and places of the Bay and Straits of Hudson.



même sur la partie nommée le Petit Nord, d'ajouter à ces conditions la cession des îles de St. Martin et de St. Barthelemy, voisines de celle de St. Christophe, si moyennant cette offre nouvelle, la Reine de la Grande Bretagne consent à restituer l'Acadie, dont la Rivière St. George sera désormais les limites, ainsi que les Anglais le prétendoient autrefois. Il est donc au choix de la Reine de la Grande Bretagne, ou de s'en tenir aux articles signés à Londres, ou d'accepter l'échange que Sa Majesté propose. En ce dernier cas, Sa Majesté apporterait toutes les facilités qui dépendroient d'elle pour terminer, à l'Angleterre, l'affaire de ce rançon d'île de Nieves (Nevis).

*Troisième.*—Comme un des principaux fruits de la paix sera, s'il plait à Dieu, l'intelligence parfaite que le Roi se propose d'établir entre ses sujets et ceux de la Reine de la Grande Bretagne, il faut écarter toutes les propositions capable de troubler cette heureuse union ; l'espérance n'a fait que trop voir, qu'il était comme impossible de la conserver dans les lieux possédés en commun par la nation Française et la nation Anglaise ; ainsi cette seule raison suffiroit pour empêcher Sa Majesté de consentir à la proposition de laisser les Anglais posséder en commun l'île du Cap Breton avec les Français. Mais une raison plus forte s'oppose encore à cette proposition, et comme on ne voit que trop que les nations les plus amies deviennent souvent ennemies, il est de la prudence du Roi de se réserver la possession de la seule île, qui lui ouvre désormais l'entrée de la rivière du St. Laurent. Elle sera absolument fermée aux vaisseaux de Sa Majesté, si les Anglois, maîtres de l'Acadie et de Terre-neuve, possédoient, encore, l'île du Cap Breton en commun avec les Français, et le Canada seroit perdu pour la France au premier événement qui renouvelleroit entre les deux nations la guerre, que Dieu détournera pour long temps ! mais le moyen le plus assuré de la prévenir est de penser souvent qu'elle peut renaître.

*Quatrième.*—On ne dissimulera pas que c'est par la même raison que le Roi veut se réserver la liberté naturelle et commune à tous les souverains, d'élever dans les îles du Golphe, et dans l'embouchure de la Rivière du St. Laurent, aussi bien que dans l'île du Cap Breton, telles fortifications que Sa Majesté jugera nécessaires. Ces ouvrages, faits uniquement pour la sûreté du pays, ne pourront jamais nuire aux îles et aux provinces voisines. Il est juste que la Reine de la Grande Bretagne ait la même liberté d'élever les fortifications, qu'elle jugera nécessaires, soit dans l'Acadie, soit dans l'île de Terre-neuve, et sur cet article le Roi ne prétend rien exiger de contraire aux droits que la propriété et la possession donneront naturellement à cette Princesse.

*Cinquième.*—Le Roi veut bien par une considération particulière pour la Reine de la Grande Bretagne lui laisser le canon et les munitions de guerre qui se trouveront dans les forts et places de la Baie et du Détroit d'Hudson, nonobstant les fortes raisons que Sa Majesté auroit de les retirer, et de les transporter ailleurs.\*

\* *Reply of the King to the Memoir from London, June 5, O. S. 1712.*

*Article First.*—His Majesty consents to cede to the Queen of Great Britain the Island of Newfoundland with the town of Plaisance, fortified, but the artillery and munitions with which this place is provided shall be taken away, and not be comprised in the cession which shall be made of the place and the island ; for they are neither attached to the one nor the other, and, to use a common comparison, the artillery and munitions of a place may be regarded as the furniture of a house which a private person takes away when he gives up the house by a voluntary contract. The isles adjacent to that of Newfoundland were neither demanded nor promised by articles signed at London in the month of October last : as they served for a rule at the commencement and during the progress of the present negotiation, the intention of the King is to follow exactly this same rule as the surest means of arriving at the conclusion of the treaty ; and His Majesty is persuaded that the Queen of Great Britain, true to her word, will not insist on a new demand, which is not to be found in the convention signed in the name of this Princess.

*Second.*—The articles signed at London reserve to the subjects of the King the privilege (*faculté*) of fishing and drying their cod fish on the Isle of Newfoundland ; a disposition made by mutual agreement can neither be restricted nor changed, but as it may be reciprocally regarded as advancing the common utility. On this ground the King offers to leave to England the munitions of Plaisance, the isles adjacent to that of Newfoundland, to interdict the French from fishing and drying cod fish on the shores of this island, even on the part called le Petit Nord, to add to these conditions the cession of the Isles of St. Martin and St. Barthelemy, near those of St. Christopher, if in consideration of this offer the Queen of Great Britain will consent to restore Acadie, of which the River St. George shall hereafter be the limits, as the English have previously contended. It is therefore for the Queen of Great Britain to choose, either to hold to the articles signed at London, or to accept the exchange which his Majesty proposes. In the latter case, His Majesty will do all in his power to terminate, to the satisfaction of England, the affair of the ransom of the Isle of Nevis.

*Thirdly.*—As one of the principal fruits of the peace will be, if it please God, that perfect understanding which the King proposes to establish between his subjects and those of the Queen of Great Britain, it is

## OFFERS OF FRANCE—DEMANDS FOR ENGLAND—THE KING'S ANSWERS.

Sept. 10, 1712.

Après la conclusion de la paix on nommera des commissaires de part et d'autre tant pour régler, dans l'espace d'un an, les limites du Canada, ou de la Nouvelle France, d'un côté, et celles de l'Acadie et des terres de la Baie de Hudson, de l'autre, que pour accommoder à l'amiable toutes les demandes justes et raisonnables, prétendu de part et d'autre, pour des griefs reçus contre les droits de la paix et de la guerre.

Les limites étant une fois fixées, on défendra aux sujets des deux couronnes de les passer et d'aller, par la mer ou par terre, les uns parmi les autres ; d'interrompre le négoce de l'une ou de l'autre nation parmi eux, ou de molester les Indiens qui sont alliés ou soumis à l'une ou à l'autre couronne.\*

[The instructions of the English Commissioners, C. Whitworth, J. Murray, Esq., Jos. Martin, Knt., and Frederick Herne, Esq., appointed under the 9th Article of the Treaty of Navigation and Commerce, concluded at Utrecht, 31st March, 1711, were dated February 15, 1713-4. On the 15th May the French Commissioners stated they had no authority to treat of Hudson's Bay.]

BOLINGBROKE A MONSIEUR DE TORCY.

*Whitehall, Nov. V. S., 1712.*

J'ai parcouru les projets de Traité qui ont été dressés à Utrecht, tant par Messieurs les Plénipotentiaires du Roi que par ceux de la Reine ; et je n'y trouve de différence considerable, que sur deux articles, celui de l'Amerique Septentrionale, et celui de commerce. Je ne veux pas entrer dans ce détail ; ce seroit une affaire d'une trop longue discussion, et au lieu de vous écrire une lettre, je vous enverrois un livre. Monsieur Prior vous entretiendra sur ces points, et je me bornerai à vous prier de tomber d'accord avec lui de

necessary to avoid all propositions capable of disturbing this happy union. Experience has only made it too evident that it was impossible to preserve it in the places possessed in common by the French and English nations ; thus this single reason is sufficient to prevent His Majesty consenting to the proposition to leave the English to possess, in common with the French, the Isle of Cape Breton. But a still stronger reason opposes itself to this proposition, and as it is but too often seen that the most friendly nations often become enemies, it is the part of prudence in the King to reserve the possession of the only isle which will hereafter open to him the entrance of the River St. Lawrence. It would be absolutely closed to vessels of His Majesty, if the English, masters of Acadie and Newfoundland, should also possess the Island of Cape Breton in common with the French, and Canada would be lost to France in the event of the first war, which may God long avert, that might break out between the two countries. But the surest means of avoiding it is often to think that it might break out.

*Fourthly.*—It need not be disguised that the King desires to reserve the liberty, natural and common to all sovereigns, to erect in the Isles of the Gulf, and in the entrance of the River St. Lawrence, as well as in the Isle of Breton, such fortifications as His Majesty may judge necessary. Those works, created solely for the safety of the country, can never be injurious to the Isles of the neighbouring Provinces. It is but just that the Queen of Great Britain should have the same liberty to erect such fortifications as she may judge necessary, whether in Acadie or the Isle of Newfoundland, and in this respect the King does not pretend to require anything contrary to what the rights of property and possession give naturally to this Princess.

*Fifthly.*—The King, out of a particular consideration for the Queen of Great Britain, consents to leave to her the cannons and munitions in the forts and places of the Bay and Straits of Hudson, notwithstanding the strong reasons which His Majesty may have for withdrawing and transporting them elsewhere.

\* After the conclusion of peace there shall be named Commissioners on both sides, as well for regulating, in the space of a year, the limits betwixt Canada, or New France, on the one side, and Acadia and the Hudson's Bay on the other, as well as amicably to settle all just and reasonable claims by one side or the other for wrongs suffered, contrary to the rights of peace and war,

The limits being once fixed, it shall be forbidden to the subjects of both Crowns to pass the same, to go by land or sea the one to the other, as likewise to disturb the trade of either nation amongst themselves, or to molest the Indian nations who are allies, or who have made their submission to either Crown.



quelques expédiens, afin que les Ministres à Utrecht n'ayent rien à démêler ensemble, mais puissent concourir unanimement à faire entrer les autres dans ses sentimens pacifiques.\*

DE TORCY TO PRIOR.

*Mémoire pour Monsieur Prior.*

Régu de Monsieur de Torcy, 7me Janvier, 1712-13. Il est porté par l'article 9 du projet, que le Roi fera remettre à la Reine de la Grande Bretagne, la Baie d'Hudson, etc., de la manière que sa Majesté et les François la possèdent présentement.

Messieurs les Plénipotentiaires de la Grande Bretagne pretendent qu'il soit exprimé que non seulement la France rendra *ce qui a été pris sur les Anglois*, mais encore, *tout ce que l'Angleterre a jamais possédé de ce côté là*. Cette clause nouvelle est différente du projet, et sera une source de difficultés continuelles ; mais pour les éviter, le Roi a renvoyé à ses Plénipotentiaires la même carte de l'Amerique Septentrionale qui leur avoit été communiquée par les Plénipotentiaires de la Grande Bretagne. Sa Majesté a fait tracer sur cette carte une ligne qui marque les limites, de manière qu'elle a lieu de croire qu'on pourra facilement convenir sur ce point de part et d'autre.

Si toutefois il y avait encore quelque difficulté que Messieurs les Plénipotentiaires ne pussent aplanir, la décision en seroit remise aux commissaires qui seront nommés pour régler les limites de l'Amerique.†

THE DUKE OF SHREWSBURY TO LORD BOLINGBROKE.

*Paris, February 22, 1713, N. S.*

In the Treaty of Peace, they (the French King and M. de Torcy) said there still remained two difficulties : one is about the immoveable estates to be disposed of in the places which France is to yield up or restore, which we thought was adjusted by the paper sent by Mr. Prior, January 19th, and which you have likewise herein inclosed ; it certainly is so as to Hudson's Bay in particular. Monsieur de Torcy says that, as far as he knows, the whole affair stands at Utrecht in the manner as this enclosed paper specifies.

“Messieurs les Plénipotentiaires de la Grande Bretagne avoient jusqu' à présent distingué les lieux cédés par le Roi à la Reine de la Grande Bretagne, et les lieux qu'ils appelloient restitués. Sous le nom de lieux restitués ils comprenoient la Baie et le Détroit d'Hudson et l'île de Terre-neuve. Ils consentoient à laisser aux François établis dans les lieux cédés, la faculté de vendre leur biens immeubles. Mais ils pretendoient que cette même liberté ne devoit pas leur être permise dans les lieux restitués, supposant que ces immeubles avoient été levés aux Anglois et qu'ils devoient y rentrer de plein droit. Aujourd'hui Messieurs les Plénipotentiaires de la Grande Bretagne ne font plus de dis-

\* BOLINGBROKE TO MONSIEUR DE TORCY.

*Whitehall, Nov. O. S., 1712.*

I have examined the projects of treaty drawn up by the Plénipotentiaires of the King as well as by those of the Queen, and I do not find any great difference except in two articles—that on North America and that on commerce. I do not desire to enter into this detail ; it would be too long an affair and too long a discussion, and instead of writing you a letter I should send you a book. Mr. Prior will discuss these points with you, and I confine myself to praying you to agree with him upon some expedient, in order that the Ministers at Utrecht, having no subject of dispute, may unanimously entertain pacific sentiments.

† Received from M. de Torcy, 7th Jan., 1712-13. The 9th article of the plan imports that the King shall give up to the Queen of Great Britain, Hudson's Bay, &c., in the manner they are now possessed by the King and the French.

The Plénipotentiaires of Great Britain insist upon the following expression : that France shall not only give up *all she had taken from the English*, but also, *all that England had ever held in those parts*. This new clause is different from the plan, and will cause continual trouble : to avoid this the King has returned to his Plénipotentiaires the original map of North America received by them from the Plénipotentiaires of Great Britain. His Majesty has caused a line designating the boundary to be drawn on the said map, and he has reason to believe both parties may easily agree upon that point.

If, however, any difficulty remained unadjusted by the Plénipotentiaires, the matter would be referred to the Commissioners appointed to settle the boundaries of America.

inction des lieux cédés et des lieux restitués quoique la même expression demeure dans l'article 14."<sup>\*</sup>

MEMOIRE DE MONSIEUR DE TORCY TOUCHANT LES BONA IMMOBILIA.

[This paper, without date, is communicated by the Earl of Shrewsbury to Lord Bolingbroke, from Versailles, March 8, 1713, N. S.]

"Le Roi consentoit à laisser aux Commissaires, qui seront nommés après la paix, l'autorité de rétablir, dans les biens immeubles de la Baie d'Hudson, les Anglois qui feroient voir, par des titres valables qu'ils en étoient ou propriétaires ou héritiers de ceulx qui avoient possédé ces biens."<sup>†</sup>

BOLINGBROKE TO THE DUKE OF SHREWSBURY.

*May 29, 1713.*

"In Monsieur de Pontchartrain's letter to the Marquis de Vaudreuil, the latter is directed to yield the forts and settlements belonging to the Hudson's Bay Company. This order, my Lord, the merchants are afraid will not answer their ends. They are dispatching two ships to the Bay, which being at a considerable distance from Quebec, where the Marquis de Vaudreuil resides, the French who are in possession of the forts on the Bay may either be ignorant, or pretend ignorance, of His Most Christian Majesty's orders, may refuse to evacuate these places, and the season may by consequence be lost, which your Grace knows continues in these northern seas but a very few months. The merchants therefore desire, and Her Majesty would have your Grace endeavour to obtain, either direct orders to the commanders in these places, or authentic duplicates of the orders sent to the Marquis of Vaudreuil, which may be put into the hands of the officer appointed to go to the Bay of Hudson, and to take possession of the places the French are to evacuate."

THE DUKE OF SHREWSBURY TO LORD BOLINGBROKE.

*Paris, June 23, 1713, N. S.*

"Concerning the letters which this Court sends to the French Governor of the forts in Hudson's Bay, which your Lordship desires to be transmitted to you, in order to their being sent thither more immediately by the two ships which we despatched thither, Mr. Prior has spoken to Monsieur Pontchartrain, who promises that your lordship shall have such letters; but as you say that M. Nicholson will have Her Majesty's orders to give the French subjects the liberty of selling their immoveable estates, Monsieur Pontchartrain desires that authentic copies of such orders may be sent hither, or delivered to the Duke d'Aumont. Their Hudson's Bay Company have some moveable effects upon the place, for which they are now sending, and they hope they will find no opposition there on our part to their so doing."

\* The Plenipotentiaries of Great Britain had hitherto made a distinction between places ceded by the King to the Queen of Great Britain, and the places which they denominated restored. Under the name of places restored they included Hudson's Bay and Straits, and the island of Newfoundland. They agreed to allow to the French settled in places ceded, the liberty to sell their immoveable effects, but insisted that the same liberty ought not to be allowed in places restored, upon a plea that such effects were taken from the English, who had a right to have them restored. The Plenipotentiaries now make no distinction between places ceded and places restored, though the same expression remains in Article 14.

† The King consented to leave to Commissaries, to be named after the peace, authority to give possession to the English who should prove that they were proprietors, or the heirs of proprietors, of those who possessed such property in Hudson's Bay.



*Mémoires du Marquis de Torcy. Par Messieurs A. Petitot et Monmérigue.*

"Sa Majesté donna ordre à Ménager d'ajouter à la cession de Terre-neuve celle de la Baie et Détroit d'Hudson : et, pour faire voir à la Reine de la Grande Bretagne, et à ses Ministres le désir qu'elle avoit de faciliter le succès de leurs bonnes intentions, elle permit à Ménager, par une clause particulière et séparée du mémoire, de remettre à la négociation générale de la paix, toute discussion sur l'article de l'Amérique Septentrionale."—T. II., p. 54.

"\* \* \* Dès le lendemain de la seconde conférence, Saint Jean, de retour de Windsor à Londres, fit avertir Ménager, qu'il l'attendoit chez Prior. \* \* \* La Reine, avec son conseil, avoit résolu de ne pas s'arrêter aux observations faites sur quelque termes jugés ambigus dans la réponse du Roi. Le secrétaire d'Etat dit que l'amour de la paix l'avoit emporté, dans l'esprit de sa maîtresse, sur toute autre considération ; elle ne souhaitait plus d'autre changement que celui du terme d'*Amérique Septentrionale*, et se réduisoit à demander que cette partie de l'Amérique fût désignée par l'expression d'*Amérique sur la mer du nord*."

"La difficulté de laisser aux François le droit de pêcher et de secher sur les côtes de Terre-neuve étoit levée ; la Reine y consentoit. Ménager étoit trop sage pour contester le changement de terme que cette princesse desiroit : aussi la satisfaction fut égale de sa part et de celle de Saint Jean."—T. II., p. 64.

## FORT NELSON RESTORED TO THE ENGLISH.

## RELATION DU DETROIT ET DE LA BAYE D'HUDSON.

*Par Monsieur Jérémie.*

"Le Fort fut nommé Bourbon, et la rivière sur laquelle il est situé fut nommée Rivière Sainte Thérèse, à cause que le fort fut réduit sous l'obéissance des François le jour de Sainte Thérèse, 14 Octobre. \* \* \* Je suis resté commandant pendant six années dans le Fort Bourbon, où j'ai eu l'honneur d'être établi par ordre précis du Roi, dont je garde encore les commissions. Aucun de ceux qui m'avoient précédé, n'en avoit eu de semblables.

"En 1714, je reçus des ordres de la cour avec des lettres de M. le Comte de Pontchartrain, pour remettre le poste aux Anglois, ainsi qu'il étoit porté par le Traité d'Utrecht.

"Quoique le fort soit bâti sur la Rivière Sainte Thérèse, c'est par la Rivière Bourbon que descendent tous les sauvages qui viennent en traite." The first great lake through which this river passes, is called by the savages Tatasquoyau Secahigan, "qui veut dire,

*\* From the Memoirs of the Marquis de Torcy. By Messieurs A. Petitot and Monmerique.*

His Majesty gave orders to Menager to add to the cession of Newfoundland, that of the Bay and Strait of Hudson ; and in order to show to the Queen of Great Britain and her Ministers the desire which he had to facilitate their intentions, he permitted Menager, by a private clause, separate from the Memoir to remit to the general negotiation of the peace the entire discussion on the article of North America.—T. II., p. 54.

\* \* \* On the morrow of the second conference, Saint John, on his return from Windsor to London, notified Menager that he was awaiting him at Prior's house. \* \* \* The Queen with her council had resolved not to dwell on (s'arrêter) the observations made on some expressions of the King that appeared ambiguous. The Secretary of State said the desire for peace had obtained the ascendancy in the mind of his Royal mistress over every other consideration ; she only desired to change the term from North America (d'Amérique Septentrionale), and confined herself to demanding that this part of America should be designated by the expression America on the North Sea. (d'Amérique sur la mer du Nord.)

The difficulty of leaving to the French the right of fishing and drying fish on the shores of Newfoundland was raised ; the Queen gave her consent. Menager was too wise to contest the change of term which this princess desired : thus he and St. John were equally satisfied.—T. II., p. 64.

Lac des Forts, dans lequel décharge une rivière que l'on nomme Quissiquatchiouen, autrement grand courant."\*

[Jérémie estimates the annual profit of the trade of Fort Bourbon to the French at 100,000 livres. In 1713, the goods they brought out cost 8,000 livres, and in 1714 he made over 120,000, which he took away when relieved by the English.]

### LIMITS OF THE POST OF TEMISCAMINGUE.

"Son [the King's] intention était d'affermir le seul poste de Temiskamingue dans les limites qui naturellement doivent consister dans les terres arrosées de la rivière de ce nom, et les autres qui se déchargent dans ladite rivière sans qu'on puisse y comprendre les terres qui sont au dessus ni au dessous de ladite rivière."†—*Mémoire des représentations sur l'adjudication qui vient d'être faite du poste de Temiskamingue, 1722.*

Begon à Monseigneur, Juin 10, 1725.

"Il fut convenu lors de l'adjudication en réglant les limites du poste de Temiskamingue qu'il était nécessaire d'y comprendre la Rivière du Lièvre tant pour donner les bornes certaines pour le front et la profondeur que parce que si cette rivière n'en dépendait point, ceux qui auraient la permission d'y faire la traite pourraient y attirer une partie des sauvages du poste de Temiskamingue. C'est pour la même raison qu'on y a compris le lac Nepissingue, et la partie de la grande Rivière des Outaouais depuis la Rivière du Lièvre qui s'y décharge aussi dans la grande rivière du côté du sud."‡

### MEMOIRE DE BEGON, OCT. 20, 1725, QUI EXPLIQUE LES ANCIENNES LIMITES DU POSTE DE TEMISCAMINGUE.

"Les anciennes limites de ce poste étaient du front depuis et compris la Rivière du Lièvre qui se décharge dans le grande Rivière des Outaouais du côté du Nord jusques et compris le lac Nepissingue, et pour la profondeur jusqu'à la Baie d'Hudson où l'on ne peut aller que par la Rivière de Monsony ou Mompisy qui se décharge dans le mer au sud du fond de ladite Baie." (From Matouan to Temiskamingue, the Ottawa river used to be called la Rivière Temiskamingue.) The height of land is at the Rivers Labyrinthe and Tabitibis—sixty

\* The Fort was named Bourbon, and the river on which it was situated was named Ste. Therese, because the fort was brought under the authority of the French on the day of St. Therese, October 14. I had the honour to be in command of the fort for six years, and I had the honour to be stationed there by express orders of the King, whose commissions I still preserve. None of my predecessors had been appointed in the same way.

In 1714 I received the orders of the Court, with letters from the Count de Pontchartrain, to hand over the post to the English, according to the terms of the Treaty of Utrecht.

Though the fort was built on the River Ste. Therese, it is by the River Bourbon that the savages come to trade. The first great lake through which this river passes is called by the savages Tatasquoyau Secahigan, which signifies the Lake of Forts, in which discharges a river called Quissiquatchiouen, or strong current.

† His (the King's) intention was to settle the single post of Temiskamingue within the limits to which it ought naturally to be confined, to the land watered by the river of this name, and others that discharge therein, without comprising the lands that are below or above the said river.—*Mémoire des Représentations sur l'adjudication qui vient d'être faite du poste de Temiskamingue, 1722.*

Begon to Monseigneur, June 10, 1725.

‡ It was agreed (*convenu*) at the time of the adjudication in regard to the limits of the post of Temiskamingue, that it is necessary to embrace the River Lièvre, as well to give certain limits for the front and the depth, as because if this river did not belong to it (*n'en dépendait point*), those who may have permission to carry on the trade there would be able to attract there a part of the savages of the Post of Temiskamingue. It is for the same reason that Lake Nepissingue and a part of the grand river of the Ottawas, from the River du Lièvre, which also discharges into the Ottawa River on the south side, was included.



leagues from Lake Temiscamingue. "A ce portage est un poste pour la traite avec les sauvages des environs et de ceux de la Baie d'Hudson qui remontent la Rivière de Monsipy. Le cours de cette rivière jusqu'à la mer est d'environ quatre vingts lieues.

"Ce poste est le plus avancé du côté de la Baie d'Hudson, les François n'allant pas faire la traite plus loin pour ne pas s'exposer aux insultes des sauvages qui pourraient être gagnés par les Anglais qui sont établis au bord de la mer où est un Fort nommé Monsipy. Cette rivière est la seule de ce poste qui conduise à la Baie d'Hudson.

"Pour aller au Lac Nepissingue lorsqu'on est à Mataouan on monte pendant quatorze lieues une rivière nommée la Petite Rivière jusqu'au lieu nommé le Portage des Vases où est la hauteur des terres. On y fait trois portages qui ont ensemble environ cinq quarts de lieue et ensuite on descend pendant deux lieues une petite rivière qui se décharge dans la Lac Nepissingue en haut duquel, du côté du Nord, se décharge une rivière appelée de la Fontaine, dont le cours est d'environ quarante lieues que l'on monte jusqu'à dix lieues près du Lac Temiscamingue."\*

*Lettre de MM. de Beauharnois et Hoquart au Ministre, Oct. 15, 1730.*—The Port of Temiscamingue had been taken from Le Sieur Gorgendière, "qui pretend avoir fait des dépenses considerables pendant son année de jouissance en présents qu'il fit faire aux sauvages des différentes nations des environs de son poste pour les y attirer et aussi dans les avances qu'il leur a faites suivant l'usage ordinaire des traiteurs." [They urged that as one or even two years' possession of a post give no chance of profit, he ought to be relieved from the obligation to pay 200 livres for goods furnished from the King's stores.]

## DISCOVERIES IN THE NORTH-WEST.

*State of geographical knowledge prior to the Discoveries of the Verandryes.*

WRITTEN BY CHARLES LINDSEY, ESQ.

Sieur de la Verandrye, an ensign in Canada, having command at Lake Nipegon, reported in 1728 that one Pako, a chief of the Indians (Christineaux) resident at Camanistiquia, having left his village to go to war towards the setting sun, arrived in a few days at a great lake which has three outlets. There is much in the first memoir of Sieur Verandrye that is fabulous and absurd, but there is also a slight mixture of the true or the probable. The story of a race of men three feet high, and of men living in the ground for the want of wood to build with, is utterly fabulous. But a new relation, forwarded to the Marquis de Beauharnois, Oct. 25, 1729, which continues the story of the Chief, Pako, contains a great geographical fact when it speaks of four great rivers taking their source in a height of land towards the west. These rivers may well stand for the Mississippi, the Saskatchewan, the Mackenzie and the Columbia. But at that time for a knowledge of the way to reach the Lake of the Woods the French were equally dependant on the accounts given by the Indians. Sieur Verandrye proposed as an aid to this discovery to make an establishment at the Lake of the Woods and another at Nipegon. "It seemed to him that it was necessary to hasten this discovery because the English, who

\* MEMORIAL OF BEGON, EXPLAINING THE ANCIENT LIMITS OF TEMISCAMINGUE.

October 20, 1725.

The ancient limits of this post were on the front, from and comprising the River du Lièvre, which discharges in the grand river of the Ottawas, on the north side as far as and comprising Lake Nipissingue, and in depth up to Hudson's Bay, where it is possible to go only by the River Monsipy or Monsipy, which discharges into the sea at the head of the said bay. [From Matouan to Temiscamingue the Ottawa River used to be called la Rivière de Temiscamingue.] The height of land is at the Rivers Labyrinth and Tabitibis, sixty leagues from Lake Temiscamingue. At this portage is a post for trading with the Indians of the environs and those of Hudson's Bay, and who come up the River Monsipy. The course of this river to the ocean is about eighty leagues.

This is the most advanced post towards Hudson's Bay. The French, in order not to expose themselves to the insults of savages who may be in the pay of the English on Hudson's Bay, where Fort Monsipy is situated, do not go further for fur trading. This is the only river of the post which conducts to Hudson's Bay.

were in commerce with the Christineaux, might become informed of the project and forestall the French (*nous prévenir sur ces établissements*) if time be given to them, and besides these establishments could not be injurious to the post of Camanistiquia, and an additional advantage independent of the discovery of the western ocean would be derived from the quantity of peltries which would be obtained, and which are now lost among the Sioux and Assiniboils, or which are taken to the English by the Christineaux."

It seems certain that, in 1728, no Frenchman had been to the Lake of the Woods; for in that year Verandrye was told by them that he could go from there to Camanistiquia in twenty days. The Indians were afraid to undertake the voyage to the western ocean because some of them had been previously overtaken by the frost, and had to carry their canoes a distance of ten days' travel from Lake Ouinipigon; "and besides they found among the English (du Petit Nord) at Hudson's Bay, (?) which is not over ten days' journey from them, everything which could invite them to go in search of the western ocean." It was thought necessary to make another establishment at Lake Ouinipigon, estimated to be about two hundred leagues from the River Camanistiquia. Leaving Montreal in May, it might be possible to reach the Lake of the Woods in September.

The third memoir on this subject, like the second, urges expedition. "The Crees," it says, "are in commerce with the English, where they have for interpreters the gens des terres; it is natural that they should there speak of the project of having the French among them, and that they will give them the same information that they have given here. The English have every interest to get in advance of us, and if time be given them they will not lose the opportunity of doing so."

Pierre Margry, a writer very familiar with the colonial archives of Paris, published an account of the discoveries in the North-West, in the *Moniteur*, September 14 and November 1, 1857, which I have transcribed and translated.

#### LES VARENNES DE VERANDRYE.

Le poste des Sioux avait été, en 1728, établi par Boucher de Montbrun, et le Père Guin-gas... Impatient de commencer, M. de la Verandrye, par un traité signé le 19 Mai, 1731, en présence de M. de la Chassaigne, Gouverneur de Montréal, s'associa quelques hommes qui firent les avances des marchandises et des équipements, et le 26 Août, après avoir passé à Michilmakinac, où il avait pris le Père Messenger pour missionnaire, il était au grand portage du Lac Supérieur, quinze lieues au sud, sud-ouest de Kamanistiquya... Si nous suivons M. de la Verandrye depuis Kamanistiquya, poste établi près du Lac Supérieur pour la seconde fois, vers 1717, par le Lieutenant Roubel de la Noüe et où les découvreurs arrivaient en 1731, nous verrons successivement leur partis passer la même année par le Lac de la Pluie ou Tekamamionen, à la décharge duquel ils établirent le fort St. Pierre; traverser le Lac Ménétié ou des Bois, sur une des rives duquel fut placé, en 1732, le fort Saint Charles; le Lac Ouinipigon, à cinq lieues duquel ils établirent un fort en remontant la rivière; la rivière Ouinipeg, appelée par eux *Rivière Maurepas* qu'ils protégèrent, en 1734, d'un fort également désigné sous le nom du Ministre; la Rivière des Assiniboëls, autrement dite *Rivière Saint Charles*, où le fort de la Reine, bâti le 3 Octobre, 1738, servait de poste avancé; puis la rivière Saint Pierre, embranchement de cette Rivière des Assiniboëls. Cette rivière, à laquelle étaient imposés à la fois le prénom de M. de la Verandrye et celui de M. de Beauharnois, fut le centre des établissements, et le point de départ des expéditions que les découvreurs allaient entreprendre au nord et au sud. C'est par elle que nous les voyons, à la fin de 1738, descendre chez les Montannes, et, en 1742, vers le haut Missouri, puis le remonter jusqu'au Montagnes Rocheuses, parmi les gens des serpents, pays qui sont le terme de leur explorations du côté du sud. Du côté du nord, dans les courses dont je ne saurais encore déterminer la date d'une manière précise, ils ont traversé le lac Dauphin, celui des Cygnes, reconnu la Rivière des Biches et remonté jusqu'à sa fourche le Saskatchewan, qu'ils nommaient *Poskoïac*. Deux forts furent établis par eux dans ces contrées, l'un au Lac Dauphin, l'autre sur la Rivière des Biches, lequel fut appelé le fort Bourbon..... Deux ans après [1738] il en avait, sur la demande de M. de Beauharnois, été recompensé par un enseigne en second, à la suite des services qu'il avait rendus dans ces commencements si pénibles; lorsque les difficultés sans nombre qu'offraient les trois lieues et un quart du Portage de Nantaouagan rebutaient les engagés, il



avait eu l'honneur de passer outre et d'aller commencer le premier établissement au Lac de la Pluie ou Tekamionen ; son intelligence, son dévouement, un courage qui ne reculait ni devant les dangers, ni devant les fatigues, lui avaient mérité la confiance la plus complète de M. de la Verandrye, et, à sa mort, celui-ci regretta non-seulement en lui un parent qui lui était cher mais encore un lieutenant précieux à son entreprise.

.... Ce ne fut qu'en 1743, que l'ainé des fils de M. de la Verandrye et le chevalier, son frère, s'avancèrent jusqu'aux Montagnes Rocheuses, dans un voyage qui dura depuis le 29 Avril, 1742, jusqu'au 2 Juillet de l'année suivante, époque à laquelle ils étaient de retour au fort Saint Charles d'où ils étaient partis.

..... Ils parvinrent cette fois aux Montagnes Rocheuses, après avoir rencontré sur le chemin le Village des Beaux-hommes, les Piogas, la nation des Petits-Renards, les gens de l'arc. Quelques-uns de ces noms, qu'on retrouve sur le carte de Lewis, font penser qu'ils arrivèrent aux Montagnes Rocheuses par le Yellow-stone. Le 1er. Janvier, 1743, ils avoient ces montagnes devant les yeux ; le 12 du même mois ils y arrivaient, et le Chevalier de la Verandrye, qui avait dû laisser son frère à quelque distance, se préparait à les gravir.....

..... A leur retour, le chevalier et son frère eurent soin de prendre possession des terres du haut Missouri, à leur arrivée, le 19 Mars, 1743, chez les gens de la Petite Cerise, campée sur le bord de ce fleuve. Ils enterrèrent à cet effet, sur une éminence près de leur fort, une plaque de plomb aux armes du roi, et en souvenir de leur passage, ils élevèrent des pierres en pyramides au nom du Marquis de Beauharnois.

..... Ce succès ne suffisait cependant pas plus à M. de la Verandrye qu'il ne satisfaisait le chevalier et son frère, puisque par cette route ils avaient la crainte de rencontrer les établissements des Espagnols, et qu'ils ne résolvaient pas non plus le problème de la mer de l'ouest, l'un des objets principaux de leur entreprise. En conséquence, ils songèrent à remonter vers le nord, ou ils découvrirent le Saskatchewan ; mais ce ne fut que cinq ans plus tard.....

[La Verandrye, loaded with 40,000 livres of debts, and being ill supported by the Government, ceased to prosecute his discoveries further.]

..... M. de Beauharnois, afin de laisser aussi tomber les mauvais bruits qu'avaient propagés les envieux, nomma M. de Noyelles pour continuer la découverte.

Déjà même en 1748, le Chevalier de la Verandrye était parti pour continuer ses découvertes dans l'ouest, et il avait remonté le Saskatchewan jusqu'à la fourche où était, tous les printemps, le rendez-vous des Christineaux des montagnes, des prairies, des rivières. Là il avait appris des sauvages que cette rivière venait de bien loin, de la hauteur des terres où il y avait des montagnes fort élevées, qu'ils avaient aussi connaissance d'un grand lac situé de l'autre côté des montagnes, et dont on ne pouvait boire l'eau.

[Sept. 17, 1749, died De la Verandrye, the elder.]

..... Les fils de M. de la Verandrye réclamaient l'honneur d'achever cette entreprise comme la plus précieuse partie de leur héritage.

..... Les Christineaux brûlèrent le Fort la Reine, et faillirent massacrer M. de Saint Pierre lui-même ; d'un autre côté, la maladie de son lieutenant, le Chevalier Boucher de Nierville, montra encore combien non-seulement il avait nui à son propre honneur, mais aussi au succès de l'entreprise, en rejetant la prière instante que MM. de la Verandrye lui avaient fait de l'accompagner. Le Chevalier de Nierville, envoyé par lui pour fonder un poste vers la source du Saskatchewan ou Poskoyac, avait été obligé de s'arrêter en route, épuisé par les misères auxquelles MM. de la Verandrye étaient faits, et quelques-uns de ses hommes purent seuls aller en avant jusqu'aux Montagnes Rocheuses, où ils établirent le Fort la Jonquière en 1752. L'expédition ne paraît pas avoir dépassé les montagnes, lorsque M. de St. Pierre, rappelé par le Marquis Duchêne de Menneville, qui succédait à M. de la Jonquière, vit arriver M. de la Corne, en 1753, pour le remplacer dans les postes de l'ouest. La guerre de sept ans, qui n'allait pas tarder à éclater, empêcha la poursuite de cette entreprise dont les colonies Anglaises, victorieuses des nôtres, devoient un jour recueillir les fruits.

Dans cette guerre, plusieurs Varennes furent tués ; mais je n'ai pu, jusqu'à présent, distinguer si c'était les fils de M. de la Verandrye ou ceux de son frère. Le sort du Chevalier de la Verandrye seul est certain ; il périt le 15 Novembre, 1761, avec un autre lieutenant du nom de Varenne, noyé.\*—*Pierre Margry, in the Monteur, September 14 and November 1, 1857.*

\* *Les Varennes de Verandrye.*—The post of the Sioux had been established in 1728 by Boucher de Montbrun and Father Guingas. . . . Impatient to commence, M. de la Verandrye, by an agreement signed May 19, 1731, in presence of M. de la Chassaigne, Governor of Montreal, associated himself with some persons who made advances of merchandise and equipments, and on the 26th August, after having gone up to Michilmakinac, where he had secured Father Messenger as a missionary, he found himself at the Grand Portage on Lake Superior, fifteen leagues south-south-west of Kamanistiquia. . . . If we follow M. de la Verandrye from Kamanistiquia, . . . a post established near Lake Superior for the second time, about the year 1717, by Lieut. Roubel de la Noue, and where the discoverers arrived in 1731, we shall see their parties pass successively the same year by Lac la Pluie or Tekamamionen, at the discharge of which they established Fort St. Pierre ; cross Lake Menitie or des Bois, on the river of which was erected, in 1732, Fort St. Charles ; Lac Ouinipigon, within five leagues of which they established a fort, up the river ; the River Winnipeg, which they called *River Maurepas* ; whom they honoured by erecting a fort, also called by the name of the Minister ; the river of the Assiniboels, otherwise called the River St. Charles, where Fort de la Reine, built on the 3rd October, 1738, served as the advance post ; afterwards the River St. Peter, a branch of the river of the Assiniboels. This river, which received at the same time the *prenom.* of M. de la Verandrye and that of M. de Beauharnois, was the centre of the establishments, and the points whence the expeditions of the discoverers started on the enterprise to the north and the south. It is by this river we see them descend towards the end of the year 1738, among the Montannes (Mandans), and in 1742 towards the Upper Mississippi, after which they ascend to the Rocky Mountains, among the gens de serpents, the end of their expedition to the south. Towards the north, in an expedition of which I cannot yet determine the date with exactness, they crossed Lake Dauphin, Swan Lake, fell in with the River des Biches, and ascended to its forks, the Saskatchewan, which they named Poskioiac. Two posts were established by them in these countries, one at Lake Dauphin, the other on the River des Biches, which they called Fort Bourbon. . . . Two years after (1738) he had, on the request of M. de Beauharnois, been recompensed by an ensigny of the second order, for service which he had rendered in these painful commencements, when the innumerable difficulties which presented themselves in the portage of Nantaonagon, three leagues and a quarter long, disgusted the *engagés*. He had the honour to pass it and to commence the first establishment on Lac de la Pluie or Tekamionen. His intelligence, his courage, a devotion which endured alike dangers and fatigues, merited the greatest confidence of M. de la Verandrye, and at his death the latter regretted in him not only a dear relative, but also a lieutenant of the greatest importance in his enterprise.

It was only in 1743 that the eldest son of M. de la Verandrye and the chevalier his brother reached the Rocky Mountains, in a voyage which lasted from the 29th April, 1742, to the 2nd of July in the same year, at which latter date they had returned to St. Charles, whence they had started.

They succeeded this time in reaching the Rocky Mountains, after having met on the road the Village of Beaux-Hommes, the Piogas, the nation of the Little Foxes, the Bowmen. Some of these names, which were reproduced on the map of Lewis, give reason to believe that they reached the Rocky Mountains by the Yellow Stone. On the 1st January, 1743, these mountains were within sight. On the 12th of the same month they had been reached, and the Chevalier de la Verandrye, who had been obliged to leave his brother at some distance behind, prepared to cross them.

On their return the chevalier and his brother took possession of the Upper Mississippi, where they arrived on the 19th March, 1743, among the gens de Petite-Cerise, a nation encamped on the banks of this river. For this purpose they interred on an eminence near the fort a plate of lead bearing the arms of the King, and in remembrance of their passage they raised pyramids of stones to the name of the Marquis de Beauharnois.

But this success did not satisfy M. de la Verandrye nor the Chevalier his brother, since by this route they feared they might encounter Spanish establishments ; and as they had not resolved the problem of the western sea, one of the principal objects of their enterprise, consequently they conceived the idea of going up towards the north, where they discovered the Saskatchewan five years later.

La Verandrye, loaded with a debt of 40,000 livres, and being ill-supported by the Government, ceased to prosecute his discoveries further.

M. de Beauharnois, in order to get rid of the ill rumours which the envious had propagated, named M. de Noyelles to continue the discovery.

Already even in 1748, the Chevalier de la Verandrye had set out to continue these discoveries in the west, and he had ascended the Saskatchewan as far as the fork, where every spring the Christineaux of the mountains, the prairies, and the rivers rendezvoused. There he had learnt from the savages that this river came from a great distance, from the height of land, where the mountains were very high, and that they knew of a great lake on the other side, of which the water could not be drunk.

Sept. 17, 1749, died De la Verandrye the elder.

The sons of M. de la Verandrye demanded the honour of completing this enterprise, as the most precious part of their heritage.

The Christineaux burnt Fort la Reine, and attempted to murder M. de Saint Pierre himself ; while, on the other side, the illness of his lieutenant, Chevalier Boucher de Nierville, showed how he had not only endangered his own honour but also the success of his enterprise, in rejecting the prayer of MM. de la Verandrye to be allowed to accompany him. Chevalier de Nierville, whom he sent to establish a post near the source of the Saskatchewan or Paskoyac, had been obliged to stop on the way, exhausted by the fatigue and misery to which MM. de la Verandrye had been exposed, and only some of his men were



## POSTS IN THE NORTH-WEST.

*Conseil de la Marine, 7 Decembre, 1717.*

MM. de Vaudreuil et Begon, ayant écrit l'année dernière que la découverte de la mer de l'ouest serait avantageuse à la Colonie, il fut approuvé, que pour y parvenir M. de Vaudreuil établit trois postes, qu'il avait proposé, et il fut marqué en même tems de faire ces établissemens sans qu'il en coutasse rien au Roi, attendu que le commerce devait indemniser ceux qui le feroient et d'envoyer un projet en détail de ce qu'il en coûterait pour continuer cette découverte. Ils marquent en réponse que M. de Vaudreuil a fait partir au mois de juillet dernier le Sieur de la Noüe, lieutenant, avec 8 canons pour suivre le projet de cette découverte. Il lui a donné ordre de faire l'établissement du 1er poste dans la Rivière du Kamanistiquoya dans le Nord du Lac Supérieur, après quoi il doit aller à Takamanigen vers le lac de Christianeaux pour en faire un second et avoir par le moyen des sauvages les connaissances nécessaires pour faire le 3me au Lac des Assinipoëlles.\*

## PREPARATIONS FOR THE DISCOVERY OF THE WESTERN OCEAN.

*Lettre de M. Begon, au Ministre. Québec, le 11 Xbre, 1718.*

Le Sieur de Vaudreuil a été informé par des lettres du Sieur de la Noüe qu'étant arrivé fort tard à Kamanistiquoya où il avait trouvé peu de sauvages, il n'avait pu détacher aucun de ces canots pour aller à la Kamanionen et qu'il y enverrait après le retour de ceux qu'il a envoyés ce printemps à Michilmakinac pour y chercher des vivres ; il ajoute que les sauvages de son poste étaient fort contents de cet établissement et promettaient d'attirer tous ceux qui ont accoutumé d'aller faire leur traite à la Baie d'Hudson ; qu'il a fait écrire par un des Français qui étaient à la pointe de Chagouamigon à un chef de la nation des Scioux, et qu'il espérait de réussir à faire la paix entre cette nation et celles des Christineaux, ce qui le mettra en état de poursuivre avec moins de risque l'exécution des ordres qu'il a pour la découverte de la mer de l'ouest.

En marge est écrit ; approuvé ce premier article.†

able to reach the Rocky Mountains, where they established Fort La Jonquière in 1752. The expedition does not appear to have crossed the mountains, when M. de Saint Pierre, recalled by the Marquis Duchene de Menneville, who succeeded M. de la Jonquière, witnessed the arrival of M. de la Corne, in 1753, to replace him in the western posts. The war of seven years, which soon after broke out, prevented the prosecution of this enterprise, of which the English colonies, victorious over ours, were one day to reap the fruit.

In this war several Varennes were killed ; but I have not been able, to the present time, to distinguish whether they were the sons of M. de la Verandrye, or those of his brother. The fate of Chevalier de Verandrye alone is certain : he perished by drowning on the 15th November, 1761, with another lieutenant of the name of Varenne.—*Pierre Margry in the Moniteur, September 14, and November 1, 1857.*

\* *Posts in the North-West—Council of Marine, December 7, 1717.*

Messrs. de Vaudreuil and Begon having written last year that the discovery of the Western Ocean would be advantageous to the Colony, it was approved that, as a means of succeeding in that enterprise, M. de Vaudreuil should establish three posts which he had proposed, and it was noted in the meantime that to found these establishments would cost nothing to the King, while the commerce should indemnify those by whom they were founded ; and to send a detailed estimate of what it would cost to continue this discovery. They stated in reply that M. de Vaudreuil, in the month of July last, had caused Sieur de la Noüe, lieutenant, with eight cannon, to set out on this discovery. He was ordered to establish the first post on the River Kamanistiquoya on the north of Lake Superior, after which he was to go to Takamanigen, towards the Christineaux, to establish the second and obtain from the savages the necessary information for establishing a third at the lake of the Assinipoëlles.

† *Letter of M. Begon to the Minister. Québec, December 11, 1718.*

Le Sieur de Vaudreuil has been informed by the letters of Sieur de la Noüe, that having arrived very late at Kaministiquoya, where he found but few Indians, he was unable to send any of the canoes to Kamanionen, and that he will send them after the return of those which he sent this spring to Michilmakinac, in search of provisions ; he adds that the Indians of his post were well satisfied with this establishment and promised to bring there all those who have been accustomed to trade at Hudson's Bay ; that he wrote through a Frenchman who was at Point Chagouamigon, to a chief of the Sioux Nation, and he hopes to succeed in making peace between this nation and that of the Christineaux ; the accomplishment of which would put him in a condition to pursue with less risk the execution of his orders for the discovery of the Western Ocean.

In the margin is written : This first article approved.

## LETTRE DE MM. DE VAUDREUIL ET BEGON AU CONSEIL.

Québec, le 14 Novembre, 1719.

Le Sieur de Vaudreuil n'a reçu cette année aucune lettre de Sr. de la Noüe ; il a seulement appris par la voie de Chagoamion qui est au sud du fond du Lac Superieur et où le Sr. de St. Pierre commande depuis l'année dernière que le Sr. Pachot y avait passé, allant au pays des Scioux où il a été envoyé par le Sr. de la Noüe, au sujet de la paix qu'il ménageait entre cette nation et celle des Christineaux, mais que le Sr. Pachot n'étant pas de retour à Chagoamion dans le temps que les derniers canots en sont partis, on n'y était point informé du succès de son voyage.

Le silence du Sr. de la Noüe donne lieu de juger qu'il aura voulu attendre le retour du Sr. Pachot, pour rendre compte au Sr. de Vaudreuil de ce qu'il a fait pour l'exécution des ordres dont il l'avait chargé, et qu'il n'aura pu le faire dans le temps que le Sr. Pachot sera arrivé à Kaministiquoya, parce que la saison aura été trop avancée.

Le Sr. de Vaudreuil estime que l'absence du Sr. Pachot aura mis le Sr. de la Noüe hors d'état d'envoyer cette année à Takamamionen, mais que cet officier aura trouvé le moyen d'attirer à son poste les sauvages qui ont accoutumé d'aller faire la traite à la Baie d'Hudson.\*

## LOSS OF TERRITORIAL RIGHTS BY ABANDONMENT.

The abandonment [of a country] is rightly presumed when the ancient possessor, aware that it is in the possession of another, and he is at liberty to demand it back, nevertheless keeps silent.

Abandonment is not less presumed when the possessor, finding himself obliged and forced to quit a country, makes no attempt to re-enter it, and does not demand it back from a third party ; and this third party pretending a better right than himself, takes public possession of it, and maintains himself there. It would be against all the laws of nature to pretend that one makes an acquisition for another and not for himself.—*Grotius* (quoted in the *Mémoire des Commissaires François sur l'isle de Sainte Lucie*.)

## ILLINOIS ANNEXED TO LOUISIANA.

*Extrait des Registres du Conseil d'Etat.*

Le Roi étant en son conseil s'étant fait représenter les Lettres Patentes en forme d'un Edit du mois d'Août dernier portant l'établissement d'une compagnie de commerce, sous le nom de Compagnie d'Occident, ensemble celle du quatorze Septembre, mil sept cent douze, accordées au Sieur Crozat ; et estimant qu'il convient pour le bien du ser-

\* Lettre de MM. de Vaudreuil et Begon, au Conseil. Québec, 14 Nov. 1719.

Le Sieur de Vaudreuil has not received any letter from Sieur de la Noüe ; he has only learnt by way of Chagoamion, which is on the south extremity of Lake Superior, where Sieur St. Pierre has been in command since last year, that Sieur Pachot had passed there on his way to the Scioux, where he was sent by Sieur de la Noüe, on the subject of the peace which he was trying to bring about between this nation and that of the Christineaux ; but that Pachot not having returned to Chagoamion when the last canoes left, there was no intelligence of the success of his voyage.

The silence of Sieur de la Noüe gives reason for believing that he has determined to wait the return of Sieur Pachot, before giving an account to Sieur de Vaudreuil of what he has done for the execution of the orders he was charged with, and that he had not been able to do it when Pachot had arrived at Kaministiquoya, on account of the season being too far advanced.

Le Sieur de Vaudreuil supposes that the absence of Sieur Pachot has prevented Sieur de la Noüe from sending this year to Takamamionen, but that this officer will have found the means of attracting to his post the Indians who are accustomed to trade at Hudson's Bay.



vice, et pour l'avantage et l'utilité de la Compagnie d'Occident ; d'augmenter le gouvernement de la Province de la *Louisiane* et d'y joindre les pays des sauvages, Illinois, oui le rapport et tout considéré, sa Majesté étant en son Conseil, de l'avis de Monsieur le Duc d'Orleans, son oncle Regent, a uni et incorporé le pays des sauvages au Gouvernement de la Province de la *Louisiane*, veut et entend que ladite Compagnie d'Occident jouisse des terres comprises sous le nom dudit pays, de la même manière qu'elle doit jouir de celles à elle accordées par lesdites Lettres Patentes du mois d'Août dernier, et que les commandants, officiers, soldats, habitans et autres qui sont et pourront être audit pays, reconnoissent le Commandant Général de la *Louisiane*, et lui obéissent et entendent, sans y contrevenir, en quelque sorte et manière que ce soit à peine de désobéissance. Fait au Conseil d'Etat du Roi, sa Majesté y étant, tenu à *Paris*, le vingt-septieme jour de Septembre mil sept cent dix-sept.

(Signé)

PHELIPPEAUX.

Et ensuite est écrit. Collationné à l'original par nous Ecuyer, Conseiller Secrétaire du Roi, Maison et Couronne de France et de ses finances.

(Signé)

LE NOIR, avec paraphe.

On the 19th June, 1718, the King notified the Marquis de Vaudreuil, Lieutenant-Governor of Nouvelle France, le Sieur Begon, Intendant, and the officers of the Superior Council at Quebec, to read and publish the Letters Patent in form of edict of August, 1717, establishing the Compagnie d'Occident and the arrêt of Council of the 27th September, 1717 "portant et qui unit et incorpore le pays des *Illinois* à la *Louisiane*;" and ordering them to be kept and observed according to their form and tenour, "Nonobstant tous edits, déclarations, arrêts, ordonnances, régléments, usages et autres choses à ce contraires, aux quelles nous avons derogé et dérogeons par ces presentes. (Signé) LOUIS. Et plus bas, par le Roi, le Duc d'Orleans, Regent, present; PHELIPPEAUX, avec paraphe. *Edits, ordonnances Royaux, déclarations et arrêts du Conseil d'Etat du Roi*. Desbarats : Quebec, 1803, T. I., pp. 375-6. Registered by the Greffier of the Superior Council of Quebec, Oct. 2, 1719.\*

## \* ILLINOIS ANNEXED TO LOUISIANA.

*Extract from the Registers of the King's Council of State.*

The King in Council, having under consideration the letters patent in form of an edict of the month of August last, establishing a commercial company under the name of the Western Company (Compagnie d'Occident), together with those of the 14th September, 1712, granted to Sieur Crozat, and being of opinion that it would be conducive to the service of the King, and of use and advantage to the Western Company, to extend the Government of the Province of Louisiana, by adding to it the country of the savages, called the Illinois. The report being read and everything considered, His Majesty in Council, on the advice of the Duke of Orleans, his uncle, Regent, has united and incorporated the country of the savages to the Government of the Province of Louisiana; desires and intends that the said Western Company shall enjoy the lands comprised under the name of the said country in the same way that it ought to enjoy those granted to it by the said letters patent in the month of August last, and that the commandants, officers, soldiers, inhabitants and others who are or who may be in the said country will recognise the authority of the General in command of Louisiana, and yield obedience to him, without any kind of opposition, on pain of disobedience. Done at the King's Council of State, in the presence of His Majesty, held at Paris, on the twenty-seventh of September, 1717.

(Signed)

PHELIPPEAUX.

And then follows the words: Compared with the original by our esquire, councillor-secretary of the King, House and Crown of France and of his finances.

(Signed)

LE NOIR, with paraphe.

On the 19th June, 1718, the King notified the Marquis de Vaudreuil, Lieutenant-Governor of New France, le Sieur Begon, Intendant, and the officers of the Superior Council at Quebec, to read and publish the letters patent in form of edict of August, 1717, establishing the Western Company. and the arrêt of the Council of the 27th September, 1717, incorporating the country of the *Illinois* with *Louisiana*; and ordering them to be kept and observed according to their form and tenour, notwithstanding any edicts, declarations, arrêts, ordinances, rules, usages, and other things contrary thereto, from which we have derogated and do by these presents derogate:

(Signed)

LOUIS.

And lower down; by the King, the Duke of Orleans, Regent, present.

(Signed)

PHELIPPEAUX, with paraphe.

*Edits, ordonnances Royaux, déclarations, et arrêts du conseil d'état du roi.*

Registered by the Clerk of the Superior Council of Quebec, Oct. 2, 1719.

LOUIS XV. TO MM. BEAUHARNOIS AND HOCQUART.

*Marly, May 8, 1731.*

"They (MM. de Beauharnois and Hocquart) are to be informed that His Majesty has accepted the surrender of the Province of Louisiana and of the Illinois country from the India Company, to date from 1st of July next. They will find hereunto annexed copies of the arrêt issued on this subject. That province will in future be dependent on the general government of New France, as it was previous to the grant to the Company.

"His Majesty has not determined whether the Illinois country is to remain dependent on the Government of Louisiana. That may, nevertheless, be most convenient, as the Governor-General will always be equally able to send him orders to it, and to be informed there of what occurs there in regard to the Indians. MM. de Beauharnois and Hocquart will examine whether it be proper to leave this country in its present state, or to disconnect it from the Government of Louisiana, as was the case before it had been granted to the company. They will be careful to report on that point, and to state the reasons for and against, whereupon His Majesty will communicate his intentions."

MEMOIR ON THE BOUNDARIES OF CANADA.

By M. DUMAS.\* (5 April, 1761.)

'Tis supposed that the plenipotentiaries named for the future Congress are incapable of adopting the frivolous ideas entertained in France respecting our possessions in Canada ; statesmen have notions different from the simple vulgar. The French are too volatile and too superficial to trouble themselves about the future ; but Ministers, whom wisdom has selected and ability directs, will of themselves observe that the interests of commerce, the progress of navigation, the good of the State and the King's glory necessarily require that the restitution of Canada be laid down as a preliminary in the Treaty of Peace.

In more favourable conjunctures, we would be justified in demanding of the English, damages corresponding to the enormous depredation of our marine, as well commercial as national ; but the circumstances which will exist at the conclusion of the peace are to decide the sacrifices we shall be obliged to make, or the advantages which are possibly to result therefrom. Commerce has changed the face of Europe ; it is now evident that, in the long run, the more commercial nation will become the more powerful.

We can no longer dispense with America, without falling sensibly from our state of splendour.

On the restitution of Canada depends the fate of the rest of our colonies.

These principles, clearer than the day, once admitted, that restitution ought to form the basis and foundation of the Treaty of Peace.

But will the work of our Ministers be durable ? For want of local knowledge, will they be in a condition to manage beneficially the interests of the King and nation in this regard ? Will they prevent the subterfuges in which English trickery will not fail to envelop them ? If the English desire peace, do they desire it to be lasting ? Will they renounce that system of maritime despotism which constitutes the sole object of their policy ? Will they not preserve a constant hankering to render themselves masters of the whole of America ? And will they not allow it to appear when we shall be least on our guard ? Incapable of accomplishing that project now, in consequence of the exhaustion of their finances, will they not renew it at another time ? In front of an enemy so active, so ambitious, so enterprising, conjectures are as good as demonstrations ; the past cannot render us too cautious for the future.

\* *Extracts.—Paris Documents XVII. (page 1134.)*

[This document seems to have governed the conduct of the Duc de Choiseul in his propositions first made to Mr. Pitt ; and is appended as serving to elucidate that correspondence.]



By a fatality which cannot be comprehended, the English were better acquainted than we were before the war with the topographical map of our possessions. Aided by similar help, what advantage do they not possess to cheat us? To this object, then should be directed all the prudence and sagacity of our plenipotentiaries.

#### BOUNDARIES.

I limit their labours, respecting Canada, to four general objects :

- 1st. The entire property of both shores of the River and Gulf of St. Lawrence.
- 2nd. The property of the lakes and rivers which form the natural communication between Canada and Louisiana ; they consist of Lake Ontario, Lake Erie, and the Ohio.
- 3rd. That neither of the two nations can form any establishments on the rivers watering the possessions of the other.
- 4th. That both colonies shall exist and increase by population, without covering their frontiers with advanced posts, which is a principle of jealousy, suspicion and distrust ; an occasion always at hand, or a pretext often specious, for a rupture between the two nations.

As for the first article—to cede to the English, as they pretend, the entire peninsula of Acadia is to reduce ourselves evidently to a precarious possession. That peninsula is susceptible of an immense population ; its position is one of the most advantageous, both for the erection of fortifications, and of posts there. Solid settlements of every description can be found there ; agriculture can be followed with the greatest success. In vain would France flatter herself that she should preserve in peace the possession of the mouth of the river, if the English obtained the entire cession of that peninsula. Already masters of Newfoundland, they should grant us the property of a country whereof they would guard the entrance.

The peace will scarcely be signed, when the activity of that ambitious people will be revived ; soon will they be seen establishing themselves on the north side of that peninsula, and neglecting the remainder, if necessary, in order to transport to that quarter all their industry in favour of plantations.

What service would not the plenipotentiaries be rendering the State, if by their ability, they would induce the English to consent to a division of that peninsula, so that France should preserve the property of the northern part, from Cape Canso to Minas ?

But if their zeal become useless, if English firmness leave no hope on that point, they ought to be prepared to rather break all conference, than to give up an inch of ground on that continent. 'Tis evident that our colony would lose thereby all communication with the metropolis ; we should no longer possess the free entrance of the river, except so far as the English would think proper. The lines of demarcation which separate the respective possessions on the map, annexed to this memoir,\* are drawn in accordance with the largest sacrifices that it is possible for France to make. 'Tis for the plenipotentiaries to take advantage of favourable events, to obtain the best terms ; but in all possible reverses, 'twill be more advantageous for the King and the State to renounce Canada, and consequently Louisiana, which cannot exist without it, than to cede an inch of territory beyond that division.

The blue colour indicates the French possessions.

The red indicates the English possessions.

The green, what can be ceded towards Hudson's Bay—should events require France to make further additional sacrifices.

I have said, and repeat it, Louisiana cannot exist for us without Canada. But 'tis more advantageous for France promptly to cede these two colonies to the English, than to accept conditions worse than those indicated by the lines drawn on that map.

On this hypothesis, let the river Pentagouet be the boundary of the English possessions on the continent, on the N.E., and let them be precluded from settling only the right bank.

Let the River St. John bound the French settlements, and let them be precluded from settling only the left bank.

\* The map is wanting.—Ed.

The territory between these two rivers shall perpetually remain neutral and undivided between both nations, as marked on the map by the yellow colour.

The second object of the labour of our plenipotentiaries relative to Canada, regards the communication of that colony with Louisiana. The projects of the English would be accomplished beyond their hopes, were the freedom of that communication not stipulated and solidly established by the treaty of peace; 'twould be separating two colonies, which cannot sustain themselves except by their immediate affinity. Now that communication can occur only by the Ohio, every other route renders it very difficult, often even impracticable. 'Tis essential, then, to insist strongly on the entire possession of the Ohio.

That river navigable throughout all its course for very large craft, threatens Louisiana afar, and combines the advantage of distance in concealing preparations, with that of extreme rapidity of current for promptitude of execution.

To make the Ohio the boundary of the respective colonies, is to surrender it entirely to the English. In fact, already the English population is advancing towards that river; it has only one step to take to clear the Apalachies, and that step would be taken on the day after the signing of the treaty. The left bank of the Ohio would be under English cultivation in less than four years, whilst our population would not reach that point in the space of a century. Who does not perceive in that explanation the approaching and inevitable fall of Louisiana?

The entire possession of the Ohio cannot, then, be too much insisted on, the Apalachies constituting the limits; but if events were such as to force us to give way on that important article, the only middle course to adopt is marked on the map by the yellow colour, viz., to leave the course of that river neutral, unsettled, without ownership, free to both nations to convey on it their goods for movable trade, with express reservation to France of the communication between both those colonies.

The possession of lakes Ontario and Erie, which is the consequence of that communication, is a point of the greatest interest to us, the rather as for want thereof, those lakes assure another passage by the Miamis and Ouabache rivers, more difficult, more uncertain but which furnishes nevertheless a resource in times of misfortune. I admit that very favourable events would be required to reduce the English to abandon the south shore of Lake Ontario, of which they are a long time in possession, through Fort Chouequen—a possession usurped, but constant, and, as it were, unopposed; an empty protest by the French Government, when the first foundations of that post were laid, is the only contradiction they have experienced.

If circumstances were such, on the conclusion of the peace, as that France had to make good its advantages, that would be the moment to protest against that usurpation. This important object merits the greatest attention of our plenipotentiaries. It is sufficient to consider the course of the waters to perceive that that lake commands the whole of Canada. General Amherst has found no route more certain for invasion; the event has not over-justified his principles and mind.

If, on the contrary, we are reduced to take back Canada in the same condition that we possessed it before the war, France might consent to confine its cultivated settlements to the north shore of Lake Ontario, leaving the south shore free from the Bay of Niagara to the River Niagara.

The English would preserve the freedom of conveying their merchandise for movable trade to the mouth of the Chouequen river, and could extend themselves only to the Onondagan river on one side, and as far as the River à la Famine on the other.

But nothing should make France give up the property of the soil, so that the freedom of trade granted to the English could not at any time invest them with a title thereto.

Let their possessions be always confined to the heads of the rivers by which they are watered, and let the height of the land be constantly the limit between the two nations.

The entire possession of Lake Erie ought to belong to France incontestably up to the head waters of the streams that empty into that lake on the south side; the rivers flowing towards the Ohio are included in the neutrality proposed by that river.

The third object proposed at the head of this memoir will be rendered clearer by a brief reflection.



The English are ten to our one in America. But if passing the height of lands, we should push our posts as far as the heads of the rivers which water the English colonies, all their superiority in numbers, means and resources would not guarantee them against an invasion when it should please us to attempt it.

He who meditates an expedition, prepares it secretly, and when 'tis time to put it in execution, if he have in his favour the current of the stream which conveys him with rapidity, he surprises his enemy, and infallibly succeeds; the same is not the case where the aggressor has to ascend the rivers, has portages to make, lakes to traverse and mountains to pass. The immense preparations necessary to be made for that purpose discover the movement, and the slowness of the execution affords time to the menaced province to place itself in a state of defence.

The English Colonies are in the latter position in respect to Canada, and Canada would be in the first relative to the English Colonies were the English to advance their settlements on Lake Champlain, Lake Ontario, or the Ohio.

I am fully convinced, and every man of sense who is conversant with the manner in which war can be carried on in that country, will agree with me that all the resources of the State will never preserve Canada if the English are once settled at the head of our rivers. 'Tis, again, one of the conditions that must never be consented to. Should peace be concluded under unfavourable circumstances to France, I point out the only middle course to be adopted, which is the neutrality of certain districts; such might Lake St. Sacrament be without great prejudice to us, provided the English confine their settlements to the sources of the waters flowing into the River of Orange.

Come we now to the fourth principle:

I know nothing more useless in that country than forts to cover the frontiers; they are equally a burden to both nations, which have an equal interest in demolishing them; they are, in time of peace, a source of useless expense, and experience has demonstrated that, in time of war they would be good for nothing. These frontier posts are adopted only to create difficulties, to afford umbrage, and sometimes furnish pretexts for a rupture.

They would favour that nation which would preserve the desire to seize the possessions of the other. By aid of the stand-points, it would pounce on its enemy when least expected, whilst every considerable enterprise becomes more difficult, more tedious, were they no longer in existence. If entrepôts must be established, the step forward is a cry "To arms."

The French Plenipotentiaries will labour usefully for that Colony, and more profitably still for the Royal Treasury, if they agree with the British Ministers on not preserving any post on the frontiers on either side; thus Couequen and Niagara will be demolished.

That does not exclude useful settlements in the interior of the possessions, either relatively to trade or otherwise, which each nation is to be at liberty to direct, according to its interests; but merely on what is called frontier, an outlet which may tend to supply means of an invasion.

To place matters at the worst, if the fortune of war be unfavourable to France this campaign, and peace be concluded in an unpropitious moment for us:

If, in order to obtain the conditions I propose, we be under the necessity of making new sacrifices in any part of Canada, the least dangerous for us would be to allow more extent to the English possessions in the direction of Hudson's Bay. Let us cede to them the whole of Lake Superior, rather than one inch of territory in the south part, at this side the height of land or the Apalachies. That sacrifice which is to be made by France at the most critical moment, is marked by the green colour on the map.

Anything beyond those lines of demarcation, and France must give up Canada, inasmuch as it is evident she cannot preserve it; moreover, to maintain ourselves in that state, the Minister must essentially and constantly occupy himself therewith; but above all things, must men be carefully selected, to whom the Government, the police and finances are to be confided.

Otherwise we shall labour for our enemies. Canada, bathed in the blood of our unfortunate colonists, will soon be the appendage of the English. Our clearances, our settlements, our villages, will be so much fruit to be gathered by them when they have arrived at maturity.

Let the height of land and the Apalachies be the limits between the two peoples. Nature appears to have marked them expressly.

The caprice of man cannot change that barrier, always permanent, and always ready to protest against the usurper. People aspire to a factitious peace when they seek to establish it on arbitrary lines which the revolutions of time or the interests of men can destroy. 'Tis, perhaps, a fault into which have fallen our ablest negotiators, yet 'till the most important object of a treaty of peace, since it destroys or foments the fatal germ which is the occasion of most wars. The height of land and the Apalachies once determined on as the line of separation between the two Colonies, the modifications, the compromises I propose, neutralizing certain districts, may be admitted according as circumstance will be more or less favourable to France, when peace will be concluded.

One reflection more remains to be submitted, which, although not bearing directly on the boundaries, is, nevertheless, very intimately connected with them.

Considering the enormous expense entailed on us by the service of Indians in the war, I have always thought that the King would maintain at much less expense in Canada, a permanent corps of troops, capable of defending it at all times, and when I have weighed, with reflection, the utility of their assistance, I have found it to be only one of opinion and prejudice. But this prejudice is founded on the terror inspired by their cruelty and barbarity in their customs; it consequently will preserve its power.

This terror will be always very useful to the nation which will best be able to manage the alliance and attachment of those people. We possess one real advantage over the English in this regard; let us carefully avoid doing it the smallest damage by any convention with our enemies which would cause the Indians to suspect our alliance and good faith. However simple and natural such an accord might be, the English would not fail to present it to the Indians in the light that would render it odious to them. These people are proud, jealous, suspicious, and vindictive; an appearance of defection on our part, after all the blood they have poured out in our defence would render these irreconcilable to us from generation to generation, and that would be the greatest of misfortunes for both our Colonies.

Our plenipotentiaries ought to be distrustful on this point. I am fully convinced that the British Ministers will set snares for them on this point, which is of more importance for them in America than the gain of many battles.

As for the rest, a Governor-General, instructed and attentive, will know how to maintain the alliance of all the people of this continent in peace as in war, without those enormous expenses which knavery conducts and ignorance tolerates.

(Signed) DUMAS.

Paris, 5th April, 1761.

#### NEGOTIATIONS FOR THE CESSION OF CANADA, 1761.

In the negotiations which took place between France and Great Britain in the year 1761, in reference to the cession of Canada, the following propositions were made:—On the 15th of July, 1761, France proposed:—

I. The King cedes and guarantees Canada to the King of England, such as it has been, and in right ought to be possessed by France, without restriction, and without the liberty of returning upon any pretence whatever against this cession and guaranty, and without interrupting the Crown of England in the entire possession of Canada.

II. The King, in making over his full right of Sovereignty over Canada to the King of England, annexes four conditions to the cession:

*First.*—That the free exercise of the Roman Catholic religion shall be maintained there, and that the King of England will give the most precise and effectual orders that his new Roman Catholic subjects may, as heretofore, make public profession of their religion, according to the rites of the Roman Church.

*Secondly.*—That the French inhabitants or others, who have been subjects of the King in Canada, may retire into the French Colonies with all possible freedom and secu-



city; that they may be allowed to sell their effects and to transport their property as well as their persons, without being restrained in their emigration, on any pretence whatever (except for debt); and the English Government shall engage to procure them the means of transportation at as little expense as possible.

*Thirdly.*—That the limits of Canada, with regard to Louisiana, shall be clearly and firmly established, as well as those of Louisiana and Virginia, in such manner that after the execution of peace there may be no more difficulties between the two nations, with respect to the construction of the limits with regard to Louisiana, whether with respect to Canada, or the other possessions of England.

[N. B.—M. Bussy has a memorial on the subject of the limits of Louisiana, which gives him power to come to a final treaty on that article with the Ministry of his Britannic Majesty.]

*Fourthly.*—That the liberty of fishing, and of drying their codfish may, on the banks of Newfoundland, be confirmed to the French as heretofore; and as this confirmation would be illusory, if French vessels had not a shelter in those parts appertaining to their nation, the King of Great Britain, in consideration of the guaranty of his new conquests, shall restore Isle Royal, or Cape Breton, to be enjoyed by France in entire Sovereignty. It is agreed to fix a value on this restitution, that France shall not, under any denomination whatever, erect any fortifications on the island, and shall confine herself to maintain civil establishments there, and the port for the convenience of the fishing vessels landing there.

On the 27th of July, 1761, the answer of the British Court to the memorial of French propositions was forwarded to Mr. Hans Stanley, the English Envoy at Paris. The first two of which relate to Canada and are the following:—

1. His Britannic Majesty will never recede from the entire and total cession, on the part of France, without any new limits, or any exception whatever, of all Canada with its appurtenances; and His Majesty will never relax, with regard to the full and complete cession on the part of France, of the Isle of Cape Breton, and of the other islands in the Gulf and River of St. Lawrence, with the right of fishing which is inseparably incident to the possession of the aforesaid coasts, and of the canals or straits which lead to them.

2. With respect to fixing the limits of Louisiana with regard to Canada, or the English possessions situate on the Ohio, as also on the coast of Virginia, it never can be allowed that whatever does not belong to Canada shall appertain to Louisiana, nor that the boundaries of the last Province shall extend to Virginia, or to the British possessions on the borders of the Ohio; the nations and countries which lie intermediate, and which form the true barriers between the aforesaid Provinces, not being proper, on any account, to be directly or by necessary consequence ceded to France, even admitting them to be included in the limits of Louisiana.

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10. The demand of the restitution of the captures at sea before the declaration of war cannot be admitted, such a claim not being founded on any particular convention, and by no means resulting from the law of nations, as there is no principle more incontestable than this, viz., that the absolute right of all hostile operations does not result from a formal declaration of the war, but from the hostilities which the aggressor had first offered.

ULTIMATUM OF FRANCE IN REPLY TO THAT OF ENGLAND, AUGUST 6, 1761, REMITTED TO THE DUC DE CHOISEUL BY MR. STANLEY.

The King renews the declaration which he made to His Britannic Majesty, to the Memorial of Propositions for Peace, which has been transmitted to Mr. Stanley, and to which the Court of England has given no answer, either by word of mouth or in writing. His Majesty again declares that if the negotiation entered into at London, for the re-es-

tablishment of peace between the two Crowns, has not the desired success, all the articles agreed to in that negotiation by France cannot be represented, on any occasion, as settled points, any more than the memorial of the Month of March last, relative to the *Uti possidetis*.

I. The King consents to cede Canada to England in the most exclusive manner, as specified in the Memorial of Propositions, but His Majesty will not recede from the conditions which he has annexed to the same memorial, relative to the Catholic religion, and to the power, facility and liberty of emigration for the ancient subjects of the King. With regard to the Fishery in the Gulf of St. Lawrence the King means to maintain the immemorial right which his subjects have of fishing in the said Gulf; and of drying their fish on the banks of Newfoundland, as it was agreed by the Treaty of Utrecht. As this privilege would be granted in vain if the French vessels had not some shelter appertaining to France in the Gulf, his Majesty proposed to the King of Great Britain the restitution of the Island of Cape Breton; he again proposes either that Island or St. John (Prince Edward) or such other port without fortifications, in the Gulf, or within reach of the Gulf, which may serve the French as a shelter, and secure to France the liberty of fishing, from whence his Majesty has no intention to recede.

II. The King has, in no part of his Memorial of propositions, affirmed that all which did not belong to Canada, appertained to Louisiana; it is even difficult to conceive such an assertion could be advanced. France, on the contrary, demands that the intermediate nations between Canada and Louisiana, as also between Virginia and Louisiana, shall be considered as neutral nations, independent of the Sovereignty of the two Crowns, and serve as a barrier between them. If the English Minister would have attended to the instructions of M. Bussy on this subject, he would have seen that France agreed with England as to this proposition.

(Mr. Pitt to M. Bussy, August 15, 1761.)

\* \* \* It belongs, Sir, to Europe to judge whether this is the Court which has shown an aversion to peace, or whether it is not that which, after so many variations and delays on her part, arbitrarily continues to insist on objects in America which we have a right to by the *Uti possidetis*, and which would make a direct attempt on the essential right of our conquests in Canada and its appurtenances in the Gulf of St. Lawrence; which, in Germany, not only refuses to give up her conquests, gained over His Majesty's allies, as a just compensation for the important restitutions with which His Majesty is willing to accommodate France, but even pretends to impose an obligation on His Majesty not to fulfil the engagements of his Crown towards the King of Prussia; which, moreover, not satisfied with throwing so many obstacles in the way of peace, has not scrupled to interpose new perplexities in opposition to this precious blessing, for which the nation sighs, by intermixing, too late, matters so foreign to the present negotiation between the two Crowns as to the discussions between Great Britain and Spain.

(From the answer of the British Minister to the Ultimatum of France, delivered to M. Bussy August 16, 1761.

His Most Christian Majesty having repeatedly declared, in the *ultimatum* of the Court of France, remitted to Mr. Pitt by M. Bussy, as well as in the Memorial of the Propositions of Peace, which was remitted by the Duke de Choiseul to Mr. Stanley, that if the negotiation entered into between the two Crowns has not the desired effect, all the articles conceded in that negotiation by France cannot be considered in any case as points agreed upon, any more than the memorial of the month of March last, in relation to the *Uti possidetis*, the King declares, in return, that if the concessions His Majesty has made to bring about peace shall not be accepted by his Most Christian Majesty, the important restitutions offered to France, as well as the other circumstances hereinafter expressed, cannot for the future be considered as given up.

ARTICLE I.—The King will not desert his claim to the entire and total cession of all Canada and its dependencies, without any limits or exceptions whatever; and likewise insists on the complete cession of the Island of Cape Breton, and of other islands in the Gulf and River St. Lawrence.



Canada, according to the lines of its limits traced by the Marquis de Vaudreuil himself, when that Governor surrendered the said Province by capitulation to the British General, Sir J. Amherst, comprehends on one side the Lakes Huron, Michigan and Superior; and the said line drawn to Red Lake takes in, by a serpentine progress, the river Ouabachi (Wabash), as far as its junction with the Ohio, and from thence extends itself along the latter river as far, inclusively, as its influx into the Mississippi.

It is in conformity to this state of the limits made by the French Governor, that the King claims the cession of Canada; a Province which the Court of France, moreover, has offered anew by their *ultimatum* to cede to His Britannic Majesty, in the most extensive manner, as expressed in the Memorial of Propositions of Peace of 13th July.

As to what concerns the public profession and exercise of the Roman Catholic religion in Canada, the new subjects of His Britannic Majesty shall be maintained in that privilege without interruption or molestation; and the French inhabitants or others, who may have been subjects of the most Christian King in Canada, shall have full power and liberty to sell their effects, provided they dispose of them to the subjects of His Britannic Majesty, and to transport their property, as well as their persons, without being restrained from their emigration, under any pretence whatever (unless in case of debt, or for a breach of criminal laws); it being always understood that the time granted for the said emigration shall be limited to the space of one year, to be computed from the day of the ratification of the Definitive Treaty.

ARTICLE II.—As to what respects the line to be drawn from Rio-Perdido, as contained in the note remitted by M. Bussy, of the 18th of this month, with regard to the limits of Louisiana, His Majesty is obliged to reject so unexpected a proposition, as by no means admissible in two respects.

1. Because the said line, under colour of fixing the limits of Louisiana, annexes vast countries to that Province, which, with the commanding posts and forts, the Marquis de Vaudreuil has, by the most solemn capitulation, incontestably yielded into the possession of His Britannic Majesty, under the description of Canada, and that consequently, however contentious the pretensions of the two crowns may have been before the war, and particularly with respect to the course of the Ohio, and the territories in that part, since the surrender of Canada, and the line of its limits has been traced, as aforesaid, by the Marquis de Vaudreuil, all those opposite titles are united, and become valid without contradiction, to confirm to Great Britain, with all the rest of Canada, the possession of those countries on that part of Ohio which have hitherto been contested.

2. The line proposed to fix the bounds of Louisiana cannot be admitted, because it would compromise in another part, on the side of the Carolinas, very extensive countries and numerous nations, who have always been reputed to be under the protection of the King, a right which His Majesty has no intention of renouncing; and then the King, for the advantage of peace, might consent to leave the intermediate countries under the protection of Great Britain, and particularly the Cherokees, the Creeks, the Chicasaws, the Chactaws, and another nation, situate between the British settlements and the Mississippi.

ARTICLE IV.—The important privilege granted by the 13th Article of the Treaty of Utrecht, under certain limitations and restrictions, to the subjects of France, for fishing and drying their cod fish on a certain part of the Banks of Newfoundland, has not been refused by Great Britain, but connected with a reciprocal satisfaction on the part of France, with regard to the indispensable object of Dunkirk, which the King has required, and still requires: it is, therefore, on condition that the town and port of Dunkirk shall be put in the condition it ought to have been in by the last Treaty of Aix la Chapelle, that His Majesty consents to renew to France the privilege of fishing and of drying their fish, by virtue of the Treaty of Utrecht, upon the aforesaid district of Newfoundland.

(Signed) H. STANLEY.

(From the last Memorial of France to England, delivered to Mr. Pitt by M. Bussy, Sept. 13, 1761.)

The King accepts the declaration of the King of England contained in the preamble of the answer, and renews that which he before made to his Majesty on this head, in such manner that it is concluded between the two Courts finally and without ambiguity, that

if peace is not the result of the present negotiation, all that has been said, written and negotiated between the two Crowns, since the memorial of the 26th March inclusive to the moment of the rupture, shall be void and of no effect, and shall not be brought as an argument in favour of either of the parties, in any future negotiation of peace.

ARTICLE I.—The King has declared in his first memorial, and in his *ultimatum*, that he will cede and guarantee to England the possession of Canada, in the most ample manner. His Majesty still persists in that offer, and without discussing the line of its limits marked on a map presented by Mr. Stanley; as that line, on which England rests its demands, is without doubt the most extensive bound which can be given to the cession, the King is willing to grant it.

His Majesty had annexed four conditions to his guaranty: it seems that England agrees to them; only the King conceives that the term of one year for the sale of the French effects and for emigration is too short, and his Majesty desires that it may be agreed to extend the term of one year to eighteen months at least.

As the Court of England has added to the first article of its answer to the entire and total cession of Canada, as agreed between the two courts, the word *dependencies*, it is necessary to give a specific explanation of this word, that the cession might not in the end occasion difficulties between the two Courts with regard to the meaning of the word “dependencies.”

ARTICLE II.—The first paragraph, with regard to the limits of Louisiana, contained in the second article of the answer from England, is agreed to by France. The second paragraph is neither just nor explicit, and it is finally proposed to express it in the following terms:—

*The intermediate savage nations between the lakes and the Mississippi, and within the line traced out, shall be neuter and independent, under the protection of the King, and those without the line, on the side of the English, shall likewise be neuter and independent, under the protection of England. The English traders also shall be prohibited from going among the savage nations beyond the line, on either side; but the said nations shall not be restrained in their freedom of commerce with the French and English, as they have exercised it heretofore.*

ARTICLE IV.— . . . England always endeavours to connect the liberty of fishing and drying codfish on part of the coast of Newfoundland, granted by the fifteenth article of the Treaty of Utrecht, with the ninth article of the same Treaty, which stipulates the demolition of Dunkirk. It is given in answer to England for the fourth and last time that the two stipulations of the Treaty of Utrecht have nothing in common between them, unless that they are both comprised in the said Treaty; and that the concession expressed in favour of the French in the thirteenth article of that Treaty, is a compensation for the cession of Newfoundland and Annapolis Royal, made on the part of France to England by the twelfth and thirteenth articles of the same Treaty.

It may be collected from this Memorial that the first Article of the English *Answer* was granted in the full extent which the Court of London required; France only desired eighteen months, instead of a year, for the emigration.

By granting the first part of the second Article, which cedes the whole current of the Ohio to England, France proposed in regard to the second point of that Article, to agree upon the nations which should be reputed neutral between Canada, Carolina, and Louisiana. This proposition was the more reasonable, because that by agreeing on this division of the possession of the two nations, an equitable system was adopted, discussions about the limits were prevented for the future, and France did not incur the risk of losing the colony of Louisiana whenever it pleased the Court of London to invade it.

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*In the Private Memorial of France, of July 15, 1761, Relating to Spain*, the Duc de Choiseul proposes that Spain should be invited to guarantee the future Treaty of Peace. He says: “The King will not disguise from his Majesty that the differences of Spain with England fill him with apprehensions, and give him room to fear that, if they are not adjusted, they will occasion a fresh war in Europe and America. The King of Spain



has communicated to his Majesty the three Articles which remain to be discussed between his Crown and the Crown of Britain, which are :

“ 1. The restitution of some captures which have been made during the present war upon the Spanish Flag.

“ 2. The privilege for the Spanish nation to fish upon the Banks of Newfoundland.

“ 3. The demolition of the English settlements made upon the Spanish territories in the bay of Honduras.”

EXTRACT FROM M. BUSSY'S NOTE TO MR. PITT.

Since the Memorial of the Propositions from France, was formed, and at the instant that the courier was ready to set out for London, the King received the consent of the Empress-Queen to a separate peace with England, but upon two conditions :

1. To keep possession of the countries belonging to the King of Prussia.

2. That it shall be stipulated that the King of Great Britain, neither in his capacity of King or Elector, shall afford any succour, either in troops or of any kind whatever, to the King of Prussia ; and that his Britannic Majesty will undertake that the Hanovarian, Hessian, Brunswickian and other auxiliaries in alliance with Hanover, shall not join the forces of the King of Prussia, in like manner as France shall engage on her part not to yield succour of any kind to the Empress-Queen nor her allies.

Both these conditions appear so natural and equitable in themselves, that his Majesty could not do otherwise than acquiesce in them, and he hopes that the King of Great Britain will be ready to adopt them.

EXTRACT FROM MR. PITT'S LETTER TO M. BUSSY, *July 24, 1761.*

\* \* \* It is my duty to declare further to you in plain terms, in the name of his Majesty, that he will not suffer the disputes with Spain to be blended in any manner whatever in the negotiation of peace between the two Crowns ; to which I must add, that it will be considered an affront to his Majesty's dignity, and as a thing incompatible with the sincerity of the Negotiation, to make further mention of such a circumstance.

Moreover, it is expected that France will not at any time presume a right of intermeddling in such disputes between Great Britain and Spain. These considerations, so just and indispensable, have determined his Majesty to order me to return you the Memorial which occasions this, as wholly inadmissible.

I likewise return you, Sir, as totally inadmissible, the Memorial relative to the King of Prussia, as implying an attempt upon the honour of Great Britain, and the fidelity with which his Majesty will always fulfil his engagements with his allies.

M. DE VAUDREUIL TO THE DUC DE CHOISEUL, *October 30, 1761.*

MY LORD,—I was astonished to see, by the historical account of the Memorial of the negotiations between France and England, what I am charged with by the English, with regard to the limits of Canada, as it is entirely false and groundless. I shall give your Grace a true account of what passed between Mr. Amherst and me on that head. When I capitulated, I traced out no limits whatever, and in all the messages that passed between the English General and me, I made use of the word “ Canada ” only. Eight or ten days after the surrender of the country, he sent an officer to me for maps, to inform him of the extent of the colony. I returned for answer, that I had none, my maps having been taken away with my baggage at Quebec, in breach of the capitulation of that place ; and the officer then showing me a map which he had in his hand, I told him the limits marked on it were not just, and verbally mentioned others, extending Louisiana on one side, to the carrying place of the Miamis, which is the height of the lands, which rivers run into the Oubache ; and on the other, to the head of the Illinois.

What I have the honour to tell you, my lord, is strictly true ; I am not afraid that the English can produce any proof of the contrary—for nothing passed in writing, on this head, nor was any line drawn on any map. I take the first opportunity to acquaint you with this, to prevent any further imposition.

\* For an account of the negotiations which led to peace, see *Bedford Correspondence*, volume 3.

## CANADIAN ENTERPRISE IN THE NORTH-WEST AFTER THE CONQUEST.

Sir Alexander Mackenzie, in his *Account of the Rise, Progress, and Present State of the Fur Trade* (1801), shows how the Canadian traders preceded the Hudson's Bay Company in the north-west. The following is abridged from his work :—

"The Indians to procure the necessary supply, were encouraged to penetrate into the country, and were generally accompanied by some of the Canadians, who found means to induce the remotest tribes to bring the skins which were most in demand, to their settlements, in the way of trade." (p. 1.)

"At length, military posts were established at the confluence of the different large lakes of Canada, which, in a great measure, checked the evil consequences that followed from the improper conduct of these foresters, and at the same time protected the trade. Besides, a number of able and respectable men retired from the army, prosecuted the trade in person, under their respective licenses, with great order and regularity, and extended it to such a distance, as in those days was considered to be an astonishing effort of commercial enterprise." (p. 3.)

"The Missionaries were, during their mission, of great service to the commanders who engaged in those distant expeditions, and spread the fur trade as far west as the banks of the Saskatchewan river, in 53° North latitude and longitude 102° west." (pp. 5, 6.)

"But notwithstanding all the restrictions with which commerce was oppressed under the French government, the fur trade was extended to the immense distance which has been already stated ; and surmounted many most discouraging difficulties which will be hereafter noticed ; while at the same time, no exertions were made from Hudson's Bay to obtain even a share of the trade of a country which, according to the charter of that Company, belonged to it, and from its proximity, is so much more accessible to the mercantile adventurer." (p. 6.)

"For some time after the conquest of Canada, this trade was suspended, which must have been very advantageous to the Hudson's Bay Company, as all the inhabitants to the westward of Lake Superior were obliged to go to them for such articles as their habitual use had rendered necessary. Some of the Canadians who had lived long with them, and were become attached to a savage life, accompanied them thither annually, till mercantile adventurers again appeared from their own country, after an interval of several years, owing, as I suppose, to an ignorance of the country in the conquerors and their want of commercial confidence in the conquered. There were, indeed, other discouragements, such as the immense length of the journey necessary to reach the limits, beyond which this commerce must begin ; the risk of property ; the expenses attending such a long transport ; and an ignorance of the language of those who from their experience must be necessarily employed, as the intermediate agents, between them and the natives. But notwithstanding these difficulties, the trade by degrees began to spread over the different parts to which it had been carried by the French, though at a great risk of the lives, as well as the property, of their new possessors ; for the natives had been taught by their former allies to entertain hostile feelings towards the English from their having been in alliance with their natural enemies the Iroquois ; and there were not wanting a sufficient number of discontented, disappointed people to keep alive such a notion ; so that for a long time they were considered and treated as objects of hostility. To prove this disposition of the Indians, we have only to refer to the conduct of Pontiac at Detroit, and the surprise and taking of Michilimackinac, about this period." (p. 7.)

"Hence it arose that it was so late as the year 1766, before which the trade I mean to consider commenced at Michilimackinac. The first who attempted it were satisfied to go the length of the River Caministiquia, about thirty miles to the eastward of the Grand Portage, where the French had a principal establishment and was the line of their communication with the interior country. It was once destroyed by fire. Here they went, and returned successful in the following spring to Michilimackinac. Their success induced them to renew their journey, and invited others to follow their example. Some of them remained at Caministiquia, while others proceeded to and beyond the Grand Portage, which since that time has become the principal entrepôt of that trade and is situated in a bay, in latitude 48° north, and longitude 90° west. After passing the usual season there,



they went back to Michilimackinac as before, and encouraged by the trade, returned in increased numbers. One of these, Thomas Curry, with a spirit of enterprise superior to that of his contemporaries, determined to penetrate to the furthest limits of the French discoveries in that country ; or at least till the frost should stop him. For this purpose he procured guides and interpreters, who were acquainted with the country, and with four canoes arrived at Fort Bourbon, which was one of their posts, at the west end of the Cedar Lake, on the waters of the Saskatchewan. His risk and toil were well recompensed, for he came back the following spring with his canoes filled with fine furs, with which he proceeded to Canada, and was satisfied never again to return to the Indian country." (p. 8.)

"From this period people began to spread over every part of the country, particularly where the French had established settlements.

"Mr. James Finlay was the first who followed Mr. Curry's example, and with the same number of canoes, arrived in the course of the next season, at Nipawee, the last of the French settlements on the bank of the Saskatchewan River, in latitude nearly  $43\frac{1}{2}^{\circ}$  ( $53\frac{1}{2}^{\circ}$  ?) north, and longitude  $103^{\circ}$  west : he found the good fortune, as he followed, in every respect, the example of his predecessor.

"As may be supposed, there were now people enough ready to replace them, and the trade was pursued with such avidity and irregularity, that in a few years it became the reverse of what it ought to have been. An animated competition prevailed, and the contending parties carried the trade beyond the French limits, though with no benefit to themselves or neighbours, the Hudson's Bay Company ; who, in the year 1774, and not till then, thought proper to move from home to the east bank of Sturgeon Lake, in latitude  $53^{\circ} 56'$  north and longitude  $102^{\circ} 15'$  west, and became more jealous of their fellow-subjects, and, perhaps, with more cause, than they had been of those of France. From this period to the present time, they have been following the Canadians to their different establishments, while, on the contrary, there is not a solitary instance that the Canadians have followed them ; and there are many trading posts which they have not yet attained. This, however, will no longer be a mystery, when the nature and policy of the Hudson's Bay Company is compared with that which has been pursued by their rivals in this trade. (p. 9.)

"This competition which has been already mentioned, gave a fatal blow to the trade from Canada, and, with other incidental causes, in my opinion, contributed to its ruin.

"Thus was the trade carried on for several years, and consequently becoming worse and worse, so that the partners, who met them at the Grand Portage, naturally complained of their ill-success.

"It was about this time that Mr. Joseph Frobisher, one of the gentlemen engaged in the trade, determined to penetrate into the country yet unexplored, to the north and westward, and, in the spring of the year 1775, met the Indians from that quarter on their way to Fort Churchill, at Portage de Traité, so named from that circumstance on the banks of the Missinipi, or Churchill River, latitude  $55^{\circ} 25'$  north, longitude  $103\frac{1}{4}^{\circ}$  west. It was, indeed, with some difficulty that he could induce them to trade with him, but he at length procured as many furs as his canoes could carry. He then sent his brother to explore the country still further west, who penetrated as far as the lake of Isle à la Crosse, in latitude  $55^{\circ} 26'$  north, and longitude  $108^{\circ}$  west.

"The success of this gentleman induced others to follow his example, and in the spring of the year 1778, some of the traders on the Saskatchewan River, finding they had a quantity of goods to spare, agreed to put them into a joint stock, and gave the charge and management of them to Mr. Peter Pond, who, in four canoes, was directed to enter the English River, so called by Mr. Frobisher, to follow his track, and proceed still further ; if possible, to Athabasca, a country hitherto unknown but from Indian report. In this enterprize he at length succeeded, and pitched his tent on the banks of the Elk River, by him erroneously called the Athabasca river, about thirty miles from the Lake of the Hills, into which it empties itself.

"Here he passed the winter of 1778-9 ; saw a vast concourse of the Knisteneaux and Chepewyan tribes, who used to carry their furs annually to Churchill ; the latter by the barren grounds, where they suffered innumerable hardships, and were sometimes even starved to death. The former followed the course of the lakes and rivers, through a

country that abounded in animals, and where there was plenty of fish : but though they did not suffer from want of food, the intolerable fatigue of such a journey could not be easily repaid to an Indian : they were, therefore, highly gratified by seeing people come to their country to relieve them from such long, toilsome, and dangerous journeys ; and were immediately reconciled to give an advanced price for the articles necessary to their comfort and convenience. Mr. Pond's reception and success was accordingly beyond his expectation ; and he procured twice as many furs as his canoes would carry. They also supplied him with as much provision as he required during his residence among them, and sufficient for his homeward voyage. Such of the furs as he could not embark, he secured in one of his winter huts, and they were found the following season, in the same state in which he left them.

"These, however, were but partial advantages, and could not prevent the people of Canada from seeing the improper conduct of some of their associates, which rendered it dangerous to remain any longer among the natives.

"Those who passed the winter at the Saskatchewan, got to the Eagle Hills, where, in the spring, 1780, a few days previous to their intended departure, a dose of laudanum was given to an Indian, from which he died ; the accident produced a fray in which one of the traders and several of the men were killed, and the remainder saved themselves by precipitate flight. (p. 13.)

"About the same time, two of the establishments on the Assiniboin River were attacked ; and nothing but the greatest calamity that could have befallen the natives, saved the traders from destruction : this was the small-pox, which spread its destructive and desolating power, as the fire consumes the dry grass of the field. The fatal infection spread around with a baneful rapidity which no flight could escape, and with a fatal effect that nothing could resist.

"The consequence of this melancholy event to the traders must be self-evident : the means of disposing of their goods were cut off ; and no furs were obtained but such as had been gathered from the habitations of the deceased Indians, which could not be very considerable ; nor did they look from the losses of the present year with any encouraging expectations to those which were to come. The only fortunate people consisted of a party who had again penetrated to the northward and westward in 1780, at some distance up the Missinipi, or English River, to Lake la Rouge. Two unfortunate circumstances, however, happened to them, which are as follows :

"Mr. Wadin, a Swiss gentleman, of strict probity and known sobriety, had gone there in the year 1779, and remained during the summer of 1780. . . .

"The other circumstance was this. In the spring of the year, Mr. Pond sent the clerk to meet the Indians from the northward, who used to go annually to Hudson's Bay ; when he easily persuaded them to trade with him, and return back, that they might not take the contagion which had depopulated the country to the eastward of them ; but most unfortunately they caught it here, and carried it with them, to the destruction of themselves and the neighbouring tribes.

"The country being thus depopulated, the traders and their friends from Canada, who, from various causes already mentioned, were very much reduced in number, became confined to two parties, who began seriously to think of making permanent establishments on the Missinipi River, and at Athabasca ; for which purpose, 1781-2, they selected their best canoe-men, being ignorant that the small-pox penetrated that way. The most expeditious party got only in time to the Portage la Loche, or Mithy-Ouinigam Portage, which divides the waters of the Missinipi from those that fall into the Elk River, to dispatch one canoe strong-handed, and light-loaded, to that country ; but, on their arrival there, they found, in every direction, the ravages of the small-pox ; so that, from the great diminution of the natives, they returned in the spring with no more than seven packages of beaver. The strong woods and mountainous countries afforded a refuge to those who fled from the contagion of the plains ; but they were so alarmed at the surrounding destruction, that they avoided the traders, and were dispirited from hunting except for their subsistence. The traders, however, who returned into the country in the year 1782-3, found the inhabitants in some sort of tranquillity, and more numerous than they had reason to expect ; so that their success was proportionably better.



"During the winter of 1783-4, the merchants of Canada engaged in this trade formed a junction of interests, under the name of the North-West Company, and divided it into sixteen shares, without depositing any capital; each party furnishing a proportion or quota of such articles as were necessary to carry on the trade: the respective parties agreeing to satisfy the friends they had in the country, who were not provided for according to this agreement, out of the proportions which they held.

"In the spring, two of those gentlemen went to Grand Portage with their credentials, which were confirmed and ratified by all parties having an option, except Mr. Peter Pond, who was not satisfied with the share allotted him. Accordingly, he and another gentleman, Mr. Peter Pangman, who had a right to be a partner, but for whom no provision had been made, came to Canada with a determination to return to the country, if they could find any persons to join them and give their scheme a proper support."

[The traders in the country, and merchants in Montreal, entered into a co-partnership, and were successful. Pond joined them; but Pangman, Gregory and Macleod formed a separate business. McKenzie was five years in Gregory's counting-house. Set up then for himself at Detroit. Admitted a partner, and sent to the Indian country. After the murder of one of the partners, the laming of another, and the narrow escape of one of the clerks, who received a bullet through his powder-horn, in the execution of his duty, union in July, 1787, consisted of 22 shares. In 1788, gross adventure for the year, £40,000. In 1798, the number of shares was increased to 42. The French had several trading establishments upon the islands and banks of Lake Bois Blanc, before the conquest. (p. 53.) The French had several settlements in and about Lake du Bois. (p. 57.) Lake du Bois—latitude  $49^{\circ} 37'$ , longitude  $94^{\circ} 31'$ ; Mississippi—latitude  $47^{\circ} 38'$ , longitude  $95^{\circ} 6'$ . (p. 58.) On the Saskatchewan are "three principal forts for trade—Fort Dauphin, which was established by the French, before the conquest; Red Deer river and Swan river forts, with occasional detached posts from these. The inhabitants are the Knistineaux, from the north of Lake Winnipic; and Algonquins, from the country between Red River and Lake Superior." (p. 65.)]

Upon the Saskatchewan "there are five principal factories for the convenience of the trade with the natives. Nipawi House, South Branch House, Fort George House, Fort Augustus House and Upper Establishment. There have been many others, which for various causes have been changed for these. \* \* \* (p. 69.)

"It may be proper to observe that the French had two settlements upon the Saskatchewan long before, and at the conquest of Canada—the first at the Pasquin, near Carrot river, and the other at Nipawi, where they had agricultural instruments and wheel-carriages, marks of both being found about those establishments, where the soil is excellent. (p. 73.)

"Till the year 1782, the people of Athabasca sent or carried their furs regularly to Fort Churchill, Hudson's Bay; some of them have since that time repaired thither, notwithstanding they could have provided themselves with all the necessaries which they required \* \* \* At present, however, this traffic is in a great measure discontinued." \* \* \* (p. 91.)

#### EXTRACTS FROM CARVER'S TRAVELS, 1766-8.

[Jonathan Carver was an American traveller, born in Connecticut in 1732, served as Captain in the war against the French in Canada. He passed about three years (1766-68) in the exploration of North America, which he crossed to the Pacific Ocean, and published in 1778, "Travels Through the Interior Parts of North America." Died in London in 1780.]

The latter end of July I arrived, after having coasted through West Bay, at the Grand Portage, which lies on the north-west borders of Lake Superior. Here those who go on the North-west Trade, to the Lakes DePluye, Dubois, &c., carry over their canoes and luggage about nine miles, till they come to a number of small lakes, the waters of some of which descend into Lake Superior, and others into the River Bourbon. Lake Superior from West Bay is bounded by rocks, except towards the south-west part of the bay where I first entered it, there it was tolerably level. . . .

Here I met a large party of Killistinoe and Assinipoil Indians, with their respective kings and their families. They will come to this place in order to meet the traders from Michillimackinac, who make this their road to the north-west. From them I received the following account of the lakes that lie to the north-west of Lake Superior :

Lake Bourbon, the most northern of those yet discovered, received its name from the French traders who accompanied a party of Indians to Hudson's Bay some years ago ; and was thus denominated by them in honour of the Royal Family of France. It is composed of the waters of the Bourbon River, which, as I have before observed, rises a great way to the southward, not far from the northern heads of the Mississippi. This lake is about 80 miles in length, north and south, and is nearly circular. The land on the eastern side is very good ; and to the southwest there are some mountains. In many other parts there are barren plains, bogs and morasses. Its latitude is between fifty-two and fifty-four degrees north, and it lies nearly south-west from Hudson's Bay. As through its northern situation the weather there is extremely cold, only a few animals are to be found in the country that borders on it. . . . (p. 107.)

Lake Winnipeg, or as the French write it, Lake Ouinipique, which lies nearest to the foregoing, is composed of the same waters. It is in length 200 miles, north and south ; its breadth has never been properly ascertained, but it is supposed to be about 100 miles in its widest part. This lake is very full of islands ; these are, however, of no great magnitude. Many considerable rivers empty themselves into it, which, as yet, are not distinguished by any names. . . .

The land on the south-west part of it is very good, especially about the entrance of a large branch of the River Bourbon, (Assiniboine) which flows from the south-west. On this river there is a factory that was built by the French, called Fort la Reine, to which the traders from Michillimackinac resort to trade with the Assinipoils and Killistinoes. To this place the Mahahs, who inhabit a country 250 miles south-west, come also to trade with them ; and bring great quantities of Indian corn to exchange for knives, tomahawks, and other articles. . . .

Lake Winnipeg has on the north-east some mountains and on the east many barren plains. (p. 109.)

On the waters that fall into this lake, the neighbouring nations take great numbers of excellent furs. Some of these they carry to the factories and settlements belonging to Hudson's Bay Company, situated above the entrance of the Bourbon River ; but this they do with reluctance on several accounts ; for some of the Assinipoils and Killistinoes, who usually traded with the Company's servants, told me that if they could be sure of a constant supply of goods from Michillimackinac, they would not trade anywhere else. They showed me some cloth and other articles that they had purchased at Hudson's Bay, with which they were much dissatisfied, thinking that they had been greatly imposed upon by the barter.

Allowing that their accounts were true, I could not help joining in their opinion. But this dissatisfaction might probably proceed, in a great measure, from the intrigues of the Canadian traders ; for whilst the French were in possession of Michillimackinac, having acquired a thorough knowledge of the trade of the north-west countries they were employed on that account, after the reduction of Canada, by the English traders there, in the establishment of this trade, with which they were themselves quite unacquainted. One of the methods they took to withdraw these Indians from their attachment to the Hudson's Bay Company, and to engage their good opinion in behalf of their new employers, was by depreciating on all occasions the Company's goods, and magnifying the advantages that would arise to them from trafficking entirely with the Canadian traders. In this they too well succeeded, and from this, doubtless, did the dissatisfaction the Assinipoils and Killistinoes expressed partly proceed. But another reason augmented it, and this was the length of their journey to the Hudson's Bay factories, which, they informed me, took them up three months of the summer heat to go and return, and from the smallness of their canoes they could not carry more than a third of the beavers they killed. So that it is not to be wondered at, that these Indians should wish to have traders come and reside among them. . . .

The French always kept a small schooner on Lake Superior whilst they were in possession of Canada. (p. 134.)



Two very large rivers empty themselves into this lake on the north and east sides : one is called the Nipegon River, or, as the French pronounce it, the Allanipegon, which leads to a band of the Chipeways, inhabiting a lake of the same name ; and the other is termed the Michipicooton River, the source of which is situated towards James' Bay, from whence there is but a short carriage to another river, which empties itself into that bay, at a fort belonging to the Company. It was by this passage that a party of French from Michillmackinac invaded the settlements of that society in the reign of Queen Anne. Having taken and destroyed their forts, they brought the cannon which they found in them to the fortress from whence they had issued ; these were small brass pieces, and remain there to this present time. (p. 137.)

At the upper end of the Straits of Ste. Marie stands a fort that receives its name from them, commanded by Mons. Cadot, a French Canadian, who, being proprietor of the soil, is still permitted to keep possession of it. (p. 141.)

The banks of the River Detroit, both above and below these towns, are covered with settlements, that extend more than twenty miles ; the country being exceedingly fruitful and proper for the cultivation of wheat, Indian corn, oats, and peas. The inhabitants, who are chiefly French that submitted to the English Government, after the conquest of these parts by General Amherst, are more attentive to the Indian trade than to farming. It is badly cultivated. (p. 151.)

#### EXTENT OF COUNTRY WHICH THE NORTH-WEST COMPANY OCCUPIED.

[Mr. David Thompson, astronomer and surveyor of the North-West Company, commenced in 1796 to survey the position of its posts, some of which had been placed as far south as the source of the Mississippi, or even further, when that point was supposed to be the northern boundary of the United States. But when the 49° became the boundary line, it was necessary to ascertain what posts were on the south of it, as the company would be required to vacate them. Mr. Thompson had previously been in the employ of the Hudson Bay Company ; but the aversion of that organization to new discoveries, caused him to accept employment under the North-West Company, when his first engagement had expired. In the summer of 1795, he had, with no other aid than that of two young Indians, who knew nothing about the country to be travelled over, and one Irishman, made his way from the shores of Hudson's Bay to the east end of Athabaska Lake. He has left behind him a manuscript, giving an account of his travels when he determined the position of the North-West Company's posts ; and it is of great importance as showing exactly what extent of country was still held by that company, the successor of the original discoverers of the north-west, some of whose posts it still continued to keep up. This country, so held, and of which the Hudson's Bay Company had not taken possession, had not ceased to be part of Canada at a period later than 1791. I shall follow Mr. Thompson's MS. closely ; and it may be advisable to resort to some details connected with this official survey of the country, on account of the great importance of the subject.]

After returning from Athabaska, Mr. Thompson was informed by a letter from Mr. Joseph Colen, the resident at York Factory, with whose sanction the expedition to Athabaska Lake had been undertaken, that he could not sanction any more surveys, whatever might be the extent of the territory still unknown to the H. B. Company. Mr. Thompson's term of service had expired, and his thirst for further discoveries determined him to seek employment from the North-West Company, composed of Canadian merchants, and carrying on their traffic with the Indians from Lake Superior. Accompanied by two Indians, he proceeded to the nearest trading-house of that company, which was under the charge of Mr. Alexander Frazer ; and thence, by the usual canoe route, to the great carrying-place on the north shore of Lake Superior, then the dépôt of the company's treasures : of merchandize from Montreal and furs from the interior. The agents of the company, the Hon. Wm. McGillivray and Sir Alexander McKenzie, were also partners ; men of enlarged views : one of them had already crossed the Rocky Mountains, by the Peace River, and had proceeded far by the Frazer towards the Pacific Ocean, when the hostility of the natives and want of provisions had obliged him to return, and who was destined to make discoveries in these countries that would render his name immortal.

The services of Mr. Thompson were very acceptable to these gentlemen. They desired to learn the position of their trading-houses, with respect to one another, and also to the 49° of north latitude, become, since the Treaty of 1792, the boundary line between Canada and the United States, from the north-west corner of the Lake of the Woods to the Rocky Mountains, in lieu of a line from the former point to the head of the Mississippi, as designated by the Treaty of 1783. The source of the Mississippi was then known only to the Indians and a few fur traders, and was supposed to be further north than the Lake of the Woods. Mr. Thompson was instructed to survey the 49th parallel of latitude, to go as far as the Missouri River, visit the ancient villages of the agricultural natives who dwelt there, to enquire for the fossils of large animals, and to search for any monuments that might throw light on the ancient state of the countries to be travelled over and examined. He received orders on all the agents and trading-posts of the company for men and whatever else he might require. This liberality and display of public spirit he could not help contrasting with the stinginess of the Hudson Bay Company, who had done little in the way of discovery which had not been forced on them by the demands of the British Government.

But the way in which it performed this duty was calculated to conceal the very knowledge which it was desired to obtain. It had, in 1785, been requested to send out a competent person to ascertain the latitude and longitude of the west end of Athabaska Lake. Mr. Peter Pond, one of the clerks of the North-West Company, who had wintered three years at Fort Chippewayan, on the north side of Athabaska Lake, had made a rough map of the country, which placed the west end of Athabaska Lake near the Pacific Ocean. If this were true, the route across the continent, at this point, might be made available for one purpose or another. Pond had taken his distances from the suppositious leagues of the canoe-men, which Mr. Thompson found to average only two miles each. The agents of the company sent a copy of this map to Sir Hugh Dalrymple, who was then in office; and he, by comparing it with the charts of Captain Cook, found that it brought the west end of Athabaska Lake within less than one hundred miles of the Pacific Ocean. This was the point which the British Government required the company to determine by actual survey.

And Mr. Thompson relates how the company performed this duty. It sent out a boy, fifteen years of age, first making him an apprentice for seven years, of the name of George Charles. Having spent one year at a mathematical school, and, armed with a quadrant, had thrice performed the feat of bringing down the sun to a chalk line on a wall, he was forthwith pronounced competent for the duty required. The result of entrusting this lad with a duty which he was quite incompetent to discharge, was to keep from the Colonial Office the required knowledge for five years; and it was not till 1790 that it was obliged, by the pressing instance of the Colonial Department, to send out a properly qualified person, Mr. Philip Turner, by whom the desired information was obtained.

This Peter Pond, who had so inaccurately laid down the west end of Athabaska Lake, was a violent and unprincipled character, became implicated in the death of Mr. Ross, a fur trader, and was afterwards accused as principal in the murder of Mr. Wadden, another fur trader. He was sent to Quebec, to be tried on the latter charge; but was released on the ground that the jurisdiction of the court did not extend to these distant territories. Being set at liberty, he went to Boston, Massachusetts, his native city, in 1792. Next year brought peace between the thirteen old colonies and England. The British Commissioners, who had to deal with the boundary question, were ignorant of the geography of the country beyond Lake Ontario; and they had but wretched assistance for their guidance in the shape of maps; one of them, by Farren, dated 1773, stopped short in any actual information at Toronto; the whole country to the west being represented as alternations of rock and swamp, and uninhabitable. Mitchell's was somewhat better, and was the best to which they had access. The American Commissioners had Pond at their elbow; and though his knowledge of the true position of places was extremely inaccurate, he had much knowledge of the value of the interior countries. Pond is said to have designated to the American Commissioners a boundary line through the middle of the Upper St. Lawrence and the lakes, and through the interior countries to the north-west corner of the Lake of the Woods, and thence west to the Mississippi; a line that was accepted by the British Commissioners.



Before proceeding to give an account of Mr. Thompson's survey of the boundary line, we must trace the route of the North-West Company of those days from Lake Superior to Winnipeg. In August, 1796, Mr. Thompson started from the south-east end of the Great Carrying Place on Lake Superior, latitude  $47^{\circ}58'1''$  north, longitude  $89^{\circ}44'20''$  west of Greenwich. To this point came the canoes from Montreal, each one carrying from forty to forty-five pieces of merchandize, each piece weighting from ninety to one hundred pounds, besides spirituous liquors; the return cargoes consisting of furs. Then the merchandize was made into assorted packages of ninety pounds each. The canoes destined to carry them into the interior were of less capacity, but each one was capable of carrying twenty-five pieces, besides the necessary provisions for the voyage and the baggage of the men; making altogether a weight of about 2,900 lbs; to which add five men, and the complete canoe load will reach 3,700 lbs.

These moved in brigades of four to eight canoes, to different points in the interior country. That on which Mr. Thompson embarked contained four, and was under charge of Mr. Hugh McGillis; the day of starting being August 9, 1796. His instruments consisted of a sextant of ten inches radius, with quicksilver and parallel glasses, an excellent achromatic telescope, one of a smaller kind, drawing instruments and thermometers; all by Dolland. They proceeded over the Great Carrying Place, which takes a north-west direction from the starting point, and is eight miles and twenty yards long, to Pidgeon River. This point is about three hundred feet above Lake Superior. These eight miles odd consumed five days—days of severe labour to the men. From Pidgeon River to the height of land the distance is thirty-eight miles, in which there are twelve carrying places which are together five-and-a-half miles of the distance. The height of land to which we have now come is in latitude  $48^{\circ}6'43''$  north, longitude  $90^{\circ}34'38''$  west, variation six degrees east. South-east from this dividing ridge, the streams run into Lake Superior, north-east by east into Lake Winnipeg, and thence into Hudson's Bay.

The country passed over in the forty-eight miles between here and Lake Superior contains many brooks and small lakes of good clear water, and parts of it seem adapted for past range.

The country now declines to the north-east, and is intersected by many streams having the same direction: they collect finally into a fine river. Rainy Lake is a fine body of water, nine or ten miles in length, and emptying into Rainy River by a descent of about ten feet. Here, below this fall, stood a trading-house of the North-West Company, in latitude  $48^{\circ}36'58''$  north, longitude  $93^{\circ}19'30''$  west. The distance from the height of land to this point is one hundred and seventeen miles. The country is more favourable for agriculture than the previous section from Pidgeon River to the height of land; and "in several places good farms can be made." Rainy River is a fine stream about two hundred yards wide, interrupted in its course by only one rapid; at the foot of which, in the season, the natives spear, or used to spear, many fine sturgeon. By this river we travel fifty miles and a half to the Lake of the Woods. The banks present all the appearance of a country capable of cultivation; but the rock lies at no great distance from the surface. The Lake of the Woods is thirty-two and a half miles long, and it contains many bays. Its area may be estimated at about eight hundred square miles, over which are scattered many islets. The north-east shores are of granite; the western, of limestone, touch on the great alluvial.

The lake of the Woods is memorable in geographical and diplomatic history. It has been the starting point in every treaty of the boundary line between the Dominion of Great Britain and the territories of the United States. It is the southernmost lake of the Stony Region; the first that having limestone on its western side, has granite, greenstone and clay slate on the north and the east.

Out of the lake flows the River Winnipeg (sea river) in a north-eastern direction, into Lake Winnipeg. It is a bold deep stream about three hundred yards in width, contains many isles, and has thirty-two falls and several channels. It is of granite formation throughout its whole course of one hundred and twenty-five miles. At the point of its entrance into Lake Winnipeg, the North-West Company had a trading-house, which owed its origin to the French. Its position was latitude  $50^{\circ}37'46''$  north, longitude  $95^{\circ}59'34''$  west, variation nine degrees east. Though the falls are so numerous, the aggregate length of the carrying places is only three miles.

From Grand Portage to Lake Winnipeg the country was probably never rich in fur-bearing animals; and it has now long since been exhausted as a hunting ground either for fur-bearing or food-producing animals, but few of either remaining. The natives, who are Chippeways, drew their chief means of subsistence from the waters: sturgeon, white-fish, pike, mackerel, and carp being the principal kinds of fish found there. Winnipeg House was an important depot of provisions, which were brought in canoes from the bison countries that surround the Red River (of the north) and the Saskatchewan, and distributed to the canoes and boats for the several wintering places on Lake Winnipeg. Red River enters the lake at a distance of forty two miles from Winnipeg House; further north the Dauphin contributes its waters, and at the north-west corner of the lake the Saskatchewan, in latitude  $53^{\circ} 43' 45''$ , longitude  $98^{\circ} 31'$  west, comes in on its way to Hudson's Bay. This lake receives many lesser streams both on the east and on the west. All these waters were valuable as highways for fur-traders. From Winnipeg House to the lower end of the Saskatchewan, the western coast line, which runs north thirty-six degrees west, is two hundred and thirty-one miles; the eastern side is longer, being about two hundred and seventeen miles; the width at either end is about forty-five miles. The area of this lake, with its islands, is about ten thousand and eighty square miles. The woods all round the lake are composed of small trees, full of branches. Neither deer nor other animals were abundant, but the waters abounded with good fish.

Mr. Thompson set out from Winnipeg House, coasting along the limestone shores of the lake, mostly low, but sometimes forming cliffs fifty feet high, to the mouth of the Dauphin River. The course in a straight line was north  $43^{\circ}$  west, one hundred and twenty-seven miles. He then proceeded up the Dauphin River, which is about thirty yards wide and three deep, and runs through a forest. Both the soil and the timber improved in quality as we proceeded, but deer and beaver are scarce. The general course for the first eight miles was south by west; but there were many turnings in the river. This brought us to the Meadow Carrying Place, two thousand seven hundred and sixty yards long, which took him to Lake Winepagos (the little sea). It would have been practicable to reach the lake by continuing on the river; but it was so circuitous as to cause the carrying Place to be preferred. On this lake we went a distance of fifty-nine miles to Swan River, a small stream only about fifteen yards wide and three deep, and which runs with a gentle current through a fine country. We are now among low hills and the heights; which the deer, after spending the summer there, are beginning to leave. Beaver now become plentiful.

Having proceeded twelve miles up the river, he came to Swan River House, of the North-west Company, in latitude  $52^{\circ} 24' 5''$  north, longitude  $100^{\circ} 36' 52''$ , variation  $13^{\circ}$  east. There were but two families of the native tribe to whom those countries belong, Nathaways. Several Chippeways had lately come from the south, their own country being exhausted of beaver and deer.

From Swan River (date September 26, 1796) we proceed with horses across the country, to the Stone Indian River, on which the North-west Company have several trading-houses, to the upper house, in charge of Mr. Cuthbert Grant; course forty degrees and a half west ninety miles; most of the way through fine forests, the ground being very good for the horses, except a few pieces of wet meadow, and even here they did not sink ankle deep.

We now make for the trading-house, in charge of M. Belleau, between Swan River and Stone Indian River, which by observation is found to be in latitude  $51^{\circ} 51' 9''$  longitude  $102^{\circ} 3'$  west; course for the last thirty miles having been north twelve degrees west. This stretch contains much wet ground and ponds occasioned by beaver dams. We now return and proceed to the upper trading-house, in charge of Mr. Hugh McGillis, latitude  $52^{\circ} 59' 7''$ , longitude  $102^{\circ} 32' 27''$ , on a course north ten degrees east, a distance of one hundred and eleven miles in a direct line; the travelled distance, owing to the *détours* occasioned by the beaver ponds, being one hundred and fifty miles. These animals held full possession of the country; but they were being rapidly destroyed. All these trading houses of the North-west Company were on the south side of the range of hills which border on the great plains.

The countries were the hunting grounds of the Nathaway Indians. Mr. Thompson was disappointed in not finding numerous mineral springs in a country having such



variety of hill and plain, forest and prairie; beyond the saline brooks of the Red River, from which even then salt was obtained by evaporation, he learned of none.

The Nepissings, Algonquins, and Iroquois, their own countries being exhausted of animals, spread themselves over this country, with destructive march, so far as the beaver was concerned, northward and westward, meeting no molestation from the native Nath-aways. The Chippeways and other tribes used the fatally baited steel-trap.\* While the great beaver harvest lasted, the Indians were rich; and they all, men women and children, made a barbaric display of their wealth, in the use of silver brooches earrings, wampum, beads and other trinkets. They wore fine scarlet cloth mantles, and sported other absurd fineries in dress. The canoes of the fur traders were loaded with beaver packs; and the supply outran the demand so far as to bring down the price in the London market. But neither the inflated prosperity nor the excess of production could last long. Over countries of such vast extent as these, four years sufficed almost to complete the work of destruction. The Indians fell back into worse than their original poverty.

Mr. Thompson proceeded to the trading-house in charge of Mr. Thornburn, in latitude  $50^{\circ} 28' 58''$ , longitude  $101^{\circ} 45' 45''$ . Having determined the position of this place, he went down the Stone Indian River to the house in charge of Mr. John McDonnell, latitude  $49^{\circ} 40' 56''$ , longitude  $99^{\circ} 27' 15''$ , the course being south by east, and the distance in one straight line one hundred and thirty-one miles. This river is about thirty yards in width, and as it derives its water from the rains and snows is of varying depth, according to the seasons. Its course is on the east side of the great plains and the west side of the low hills, whence it receives several brooks, and from the plains of Calling River a few. In addition to its being always shoal in autumn, its course is very sinuous. The Stone Indian River everywhere runs through an agreeable country with a good soil, well adapted for agriculture.

The bison, the moose, the red deer, and two species of antelope, here gave the Nath-aways an easy means of subsistence.

The Stone Indians, a numerous tribe of the Sioux nation, possessed the country south and west of this river to the Missouri; but the more southerly and western parts they shared in common with several other tribes.

Mr. Thompson's journals, surveys and sketches having been translated out of crayon into ink, and there being nothing more to be done there, he set out from Mr. McDonnell's, on a winter's journey, for the Mandan villages, on the banks of the Missouri, this 28th November, 1797. The guide and interpreter, Monsieur René Jussomme, had resided eight years in those villages, and spoke the Mandan language with fluency. There were also in the party Mr. Hugh McCracken, a good-hearted Irishman, who had been to the villages many times, and even resided there for weeks and months; seven French Canadians, good-humoured fellows, willing to hunt for the means of securing their greatest enjoyment—eating—who possessed not the least tincture of education, and did not see its value. All these, except Mr. Thompson's servant man, A. Brossman, were for the time free traders, on their own account, each of them having taken from McDonnell, on credit, a venture in goods to the value of forty to sixty skins, to be paid for in kind. Having been supplied with ammunition, tobacco and trinkets to pay expenses on the way, Mr. Thompson provided with two horses, and Mr. Jussomme with one, the men having their own dogs, to the number of thirty, to haul their goods on flat sleds, everything was now ready for the journey. The half-wolf dogs had all been obtained in trade from the Stone Indians, by whom numbers are kept in their encampments. These brutes are extremely voracious.

After thirty-three days' travel, with the thermometer nearly always below zero, and sometimes descending to  $36^{\circ}$  below, having encountered high winds and blinding snow-drifts, depending chiefly on the precarious chase for means of subsistence, and sometimes being in danger from hostile Indians, the party arrived at the village of the Fall Indians, lat.  $47^{\circ} 25' 11''$ , long.  $101^{\circ} 21' 5''$ , the whole distance travelled in that time being two hundred and eighty miles.

Although few of the Mandans had guns, they had already received some from trading parties of the Hudson's Bay Company, who had probably straggled through the

\* The bait was castorurn, and was quite irresistible.

country in a favourable season, much as the men belonging to Mr. Thompson's party were doing, or more likely they obtained them from traders they had met at a distance from their villages. This does not prove that that Company had any substantial occupation of this part of the country. The lower village of the Mandans was found to be in lat.  $47^{\circ} 17' 22''$ , long.  $101^{\circ} 14' 24''$ , variation ten degrees east.

The road from the Mandan villages to Stone Indian River House, travelled by Mr. Thompson, may be thus divided. Following from one piece of woods to another, where fuel and shelter could alone be obtained, the course to the Dog Tent Hill, twenty-eight degrees east, was fifty miles; thence to the elbow of the Moose River, north forty-nine degrees east, twenty miles; thence to the south end of Turtle Hill, north nine degrees west, fourteen miles; thence to the Ash House, on Moose River, north three degrees west, twenty-four miles; thence to the house of Mr. McDonell, north sixty-nine degrees east, forty-five miles. A straight line between the two extreme points would run north twenty-six degrees east, one hundred and eighty-eight miles.

Mr. Thompson spent three weeks in calculating the astronomical observations made in the late journey. Stone Indian River House was by a series of observations found to be in latitude  $49^{\circ} 40' 56''$ , longitude  $99^{\circ} 27' 15''$ , variation eleven degrees east.

On the 26 February, 1798, Mr. Thompson took leave of his hospitable friend, Mr. John McDonell, by whom he was furnished with everything necessary for his journey of survey. He was accompanied by three Canadians and an Indian guide, and six dogs hauled three sleds laden with provisions and baggage. The course was sometimes on the ice of the Stone Indian River, but, to avoid its windings, mostly on the north side. In the afternoon the Manito Hills were reached—a long, low ridge of sand knolls, steep on the west side, sloping more gradually on the east, growing only a few patches of grass, and retaining no snow during the whole winter; which phenomenon the Indians regard as preternatural, and fix that idea in the name. Except the sand ridge, the country is very fine, especially at the junction of the Moose River, about half a mile below the trading-house.

As the journey proceeded day after day, the snow was found to increase in depth, and it was no easy task to beat a path for the dogs and sleds; the snow shoes of the foremost man sinking six inches at every step. The guide became so fatigued that he had to be relieved two or three hours every day.

On the 7th March he arrived at the junction of Stone Indian with Red River, in latitude  $49^{\circ} 53' 1''$ , longitude  $97^{\circ}$ , variation nine degrees east. In a straight line the course is north  $82^{\circ}$  east, one hundred and twelve miles; the windings of the river are more than three times this distance, and the distance travelled was one hundred and sixty-nine miles.

On the 7th March, 1798, Mr. Thompson began the survey of the Red River, and on the 14th he arrived at the trading-house of the North-West Company, under charge of Monsieur Charles Chaboiller, by whom the party were kindly received. The travelling during these eight days was very difficult. The snow was fully three feet deep, and the surface of the river ice was covered by water, the weather being mild, with showers of rain. The snow, mixed with water, stuck to the sleds, and made it impossible for the dogs to haul them. Many times a couple of men had to assist the dogs in extricating them. In wet weather everything was soaked and had to be dried. To beat the road was slavish work. Ankles and knees were sprained by the weight of wet snow that adhered to the snow-shoes; and the difficulty was increased by the long grass that had to be walked over. Mr. Thompson had to take the place of the guide. He tied a string to the toe of each snow-shoe and holding the opposite ends in his hands, lifted them out of the soft snow. In this way, with his gun slung on his back, the party marched on the west side of the river. The whole distance was over long prairie grass, very difficult to walk among. The only trees were of oak, ash, alder and nutwood; but the numerous charred stumps afforded evidence that on this side of the river had once grown a pine forest. In the more northern regions the pines, when destroyed by fire, have been succeeded by aspens, poplars and alders; but along the Red River the excellence of the soil and the mildness of the climate made the successors of the pines similarly destroyed, oak, ash, alder and nutwood.



At this trading-house, where we arrived on the 14th, Mr. Thompson remained for six days. He determined its position to be latitude  $48^{\circ} 58' 24''$ , longitude  $97^{\circ} 16' 40''$ , variation of the compass eight and a half degrees east, being one minute and thirty-six seconds south of the United States boundary line, which Mr. Thompson pointed out, in order that the trading-house might be removed beyond it. This line was, several years later, confirmed by Major Long, of the united corps of engineers. From the junction of the Stone Indian with the Red River it is south eleven degrees and a quarter west, sixty-five and a half statute miles; to the boundary line sixty-four miles.

The number of Indians (Chippeways) who traded at this house was ninety-five men; and supposing every one of them to represent a family of seven souls, we have an aggregate of 665. At Rainy River House, in latitude  $48^{\circ} 36' 58''$ , longitude  $93^{\circ} 19' 30''$ , in a course hence south eighty-two degrees east, a distance of one hundred and eighty four miles, sixty of the same tribe traded, representing four hundred and twenty more. If we divide the families by the mileage of the hunting-ground, every seven souls will be found to have had a hunting-ground of one hundred and fifty to one hundred and eighty square miles. And yet they had very little provisions to spare; proof that this part of the country did not even then abound in wild animals. This circumstance would furnish a reason why the Hudson's Bay Company would not care to extend their operations there. The beaver had become scarce; not being obliged to use the same hard materials in building his house as are necessary further north, this animal had been a comparatively easy prey to the Indian. In summer, these Indians subsist on fish, and in autumn, part of them on wild rice.

The Red River is here one hundred and twenty yards wide. Eleven miles further down it receives the waters of the Reed River, from the eastward. It is about the same width, but less deep. This part of the river is called Pembina, from a small stream that comes in. The deep rich soil of the Red River is everywhere fit for cultivation.

York Factory, on Hudson Bay, was distant, north twenty-four degrees east, six hundred and sixteen miles in a straight line, and not less than nine hundred miles by the only practicable route. The obstructions occasioned by carrying places would greatly lengthen the time and labour of the voyage.

On the 21st March, Mr. Thompson and party started on their journey down the banks of the river, and on the 25th arrived at the North-West Company's house, under charge of Monsieur Baptiste Cadotte, latitude  $47^{\circ} 54' 21''$ , longitude  $96^{\circ} 19'$ , variation  $10^{\circ}$  east. The weather was fine during the journey, and the frosts of night made the snow firm several hours of the day. In some places there was a fine border of woods along the river, from thirty to three hundred yards wide. Among the varieties were oak, ash, elm and basswood; the aspens became more frequent. There is a fine rich, deep soil the whole distance.

On the 9th April, the Red River being clear of ice, Mr. Thompson left the trading-house in charge of M. Cadotte, whither he had returned, in a canoe eighteen feet long, accompanied by three Canadians and a native woman, the wife of one of the men, provided with a stock of twelve days' provisions. The object of the expedition was to survey the country to the source of the Mississippi River. There was a choice of two routes; that direct to Red Lake, where the current was moderate, but liable to be encumbered with ice from the lake; or Clear Water River, where the current was swift, but where there was no fear of ice. The latter was chosen, and a slow progress up it commenced. This river was fifty yards wide, and now, from the melting of the snow, about eight feet deep, though in August and September its depth is not over two feet.

On the 11th, the junction of Wild Rice River was passed; after which the current became more moderate and the quantity of water less. Next day the carrying place which leads to Red Lake River was reached; a distance of sixty-four miles up this sinuous river having been made. The east or right bank was covered with a fine forest of pine, but higher up the aspen prevailed. On the west bank grew patches of hard wood, with a rich soil and fine meadows leading to the plain. The carrying place is four miles long, part marsh and part good ground; it leads to the bank of the Red Lake River, in latitude  $48^{\circ} 0' 55''$ , longitude  $95^{\circ} 54' 28''$ , variation ten degrees east.

The course now lay up this river to Red Lake, a distance of thirty-two miles. Both banks were well timbered; oak, ash, and other hard woods being intermixed with aspen

and poplars, the rich deep soil everywhere covered with water from the melting of the snow. So level was the surface that only here and there a bit of dry land was to be seen. At night the party cut down trees to sleep upon.

The head of this river, at its junction with the lake, was found by observation to be in latitude  $47^{\circ} 58' 15''$ , longitude  $95^{\circ} 35' 37''$ . To make a distance in a straight line north  $82^{\circ}$  east, it was necessary to travel one hundred and seventeen statute miles, and consume seven days of fourteen hours each.

At this lake, the old Chief She-she-she-pas-kut, with six lodges of Chippeways, was encamped. The Chippeways being without a canoe, Mr. Thompson lent them his, with which to spear fish in the night.

Three sturgeon, weighing sixty pounds each, were caught. They were good for clear water lake sturgeon; this fish, like the hog, being most at home in mud.

Red Lake is a fine sheet of water, about thirty miles in length and ten in breadth; the banks twenty to thirty feet high; the soil, somewhat sandy, produces fine firs and other woods; in some places dwarf white cedar. The North-west Company occasionally has a trading-house here for a winter. The country, poor in furs, would be exhausted by a winter's hunt, and would require to lie fallow for some time. The lake being partly covered with ice, the canoe was paddled in open places, and hauled on a rude sled, extemporized for the occasion, over patches of ice. This amphibious kind of travelling was continued over a distance of seventeen miles; wet, laborious work, performed amid many showers of rain and sleet.

A carrying place, six miles long, has now to be passed, in a southerly direction, the road leading through a forest of firs and aspens, with a sprinkling of oak and ash. The ground in the middle of the carrying place presented numerous ascents and descents of from twenty to forty feet: the first met with since Red River was left. By nine o'clock, P.M., April 23, everything had been carried overland to Turtle Lake. The source of the Mississippi River was reached four days later. The journey was very fatiguing. The country travelled over presented a succession of lakelets or ponds, some of which were open and others partly covered with ice, winding brooks and carrying places. The low level country everywhere presented the appearance of an immense marsh, growing an abundance of wild rice over an area of at least 6,000 square miles.

The distance from Red River, south  $70^{\circ}$  east, fifty-six statute miles, was made in nineteen days—not quite three miles, in a direct line, a day. Owing to the winding character of the brooks, an hour's paddling would sometimes produce scarcely any progress.

Turtle Lake, the head of the Mississippi River, is about four miles square. Its small bays give it the shape of a turtle. This lake was supposed, in 1783, to be farther north than the north-west corner of the Lake of the Woods, and this supposition led to the error in the treaty of that year. The error arose from the fur traders who ascended the Upper Mississippi counting every pipe a league, at the end of which it was the habit to take a rest. Mr. Thompson found these pipe distances to be as unsubstantial as the smoke itself, and that each instead of three only measured two miles. And the error was, not to make due allowance for the sinuities of the river. By this false method of reckoning the notion had arisen that the head waters of the Mississippi were 128 geographical miles farther north than Mr. Thompson's survey proved them to be. The north bank of the lake is in latitude  $47^{\circ} 38' 20''$ , longitude  $95^{\circ} 12' 4''$ .

Mr. Thompson here fell in with two canoes of Indians on their way to Red Cedar Lake, and as his own canoe was leaking he went with them in one of theirs. On the south-west corner of Turtle Lake is Turtle Brook, three yards wide, two feet deep, and having a current of two-and-a-half miles an hour. Rather than follow its windings, they made a portage of 180 yards to a small lake, out of which they emerged into a brook, the fantastic windings and turnings of which they followed through a country of grass and marsh. Three portages had to be made to avoid as many falls, and several rapids with a gravelly bottom were passed over. On approaching Red Cedar Lake, several brooks from either side contributed their waters; the stream at the entrance of that Lake being fifteen yards wide, two feet deep, and having a current of three miles an hour. Crossing the lake, a distance of five miles, Mr. Thompson reached a trading-house of the North-West Company, in charge of John Sayer, one of the partners, which was found to be in



lat.  $47^{\circ} 27' 56''$ , lon.  $94^{\circ} 52'$ , variation six degrees east. From the mouth of Turtle Lake to this trading-house the distance is south  $58^{\circ}$ , east 25 miles; but the windings of the river more than treble the distance to be travelled. On each side of the valley grew oak, ash, elm, birch, pine, aspen, and, where there was a little elevation, fine maple; soil deep, grass long. Mr. Sayer and his men had passed the whole winter here, on no more substantial food than wild rice and maple sugar. The rice made good soup, but when Mr. Thompson tried to live on it he soon became ill. About sixty heads of families traded at this house, and Mr. Sayer estimated each Indian family at seven persons, which would make the whole number 420.

On the 3rd May, Mr. Thompson started down the river, now expanded to twenty-six yards in width by three deep, and having a current of two miles an hour. The Valley of the Mississippi had here the appearance of a meadow of long, half-dried grass, free from water, and scarcely half a mile wide, gradually expanding as it descends. At the mouth of Sand Lake River the river becomes sixty-two yards wide and twelve feet deep. Sand Lake River, south  $48^{\circ}$  east, is sixty-eight miles from Red Cedar Lake. In this distance there are ten miles of lake and fifty eight of river. The windings on the river make the distance to be travelled on it two hundred miles. The descent from Turtle Lake to Cedar Lake is ninety-seven feet nine inches, and from Cedar Lake to Sand Lake River 333 feet four inches, making a change of level of no less than 431 feet in an apparently even country.

Arriving at Sand Lake River, on the 6th, Mr. Thompson entered it to make his way to Lake Superior. This river is twenty yards wide, five in depth, and runs a mile and a half an hour. When he had proceeded a mile, half the distance to Sand Lake, Mr. Thompson arrived at another trading-house of the North-West Company, under charge of Mr. Boiské. Here were the women and children of about twenty families. All the furs bought at this post were the produce of the country between the Mississippi River and Lake Superior. Twenty heads of families brought their furs here; reckoning seven to a family, this post must have been supported by the labour of two hundred and ninety-four Indians, men, women and children. This trading-house was found to be in north latitude  $46^{\circ} 46' 30''$ , longitude,  $93^{\circ} 44' 17''$  west.

Mr. Thompson had now to cross the country to reach the river St. Louis, by which he was to descend to Lake Superior. Crossing Sand Lake, May 7th, which is about four miles in length and one wide, to Savannah Brook, he proceeded eight geographical miles—made nine by détours—to a great swamp a mile wide, in a north  $81^{\circ}$  east direction; the latter portion, consisting of a bog, being passed over by means of a few sticks to form a road, to slip from which entailed the penalty of sinking down to the waist. Across this description of country, growing scrubby pines a few feet high, all the baggage of the party had to be carried. Over this route the North-West Company had to carry all the furs, provisions, baggage, goods, and canoes connected with their trade between Lake Superior and Mississippi. The custom was for the person in charge of the brigade to cross this bog and swamp as rapidly as possible, leaving the men to take their own time. It was so difficult to get canoes or goods over this swamp, of which no one standing in the middle could see the end, in any direction, it was the custom of the North-West Company to keep canoes at both ends. The swamp having been crossed, after a hard day's work and with the aid of an extra man, Mr. Thompson found the latitude to be  $46^{\circ} 52' 3''$  north, longitude  $92^{\circ} 28' 42''$  west, variation six degrees east.

Passing through a small brook a distance of twelve miles in a direct line, but twenty by its course, Mr. Thompson entered the River St. Louis, a stream about one hundred yards wide and eight deep. The men of his party, who had been in the habit of navigating this river for years, assured him that in August and the two following months it has only eighteen inches of water, running among stones, which it is often necessary to turn the canoe aside to avoid. In one of the many rapids of this river the canoe filled with water. Then came cataracts formed by a series of small steps round a point of rock, necessitating resort to a carrying place 1,576 yards long. Then after four miles more another carrying place of seven miles, where, on the left of the travellers, the river has a series of falls estimated at one hundred and twenty feet, below which the river flows with a moderate course into Lake Superior. Near the mouth of the river was a trading-house of the North-West Company, under charge of M. Lemoine, in latitude  $46^{\circ} 44' 33''$ , longitude  $92^{\circ} 9' 45''$ ,

variation five and a half degrees east. M. Lemoine's returns were six hundred pounds of furs, and he expected to obtain four hundred pounds more, nine kegs of gum from the fir trees to staunch the canoes, and one hundred and twenty gallons of maple sugar. About two hundred and twenty Indian families traded at this house, representing two hundred and ten persons in all.

"I have," says Mr. Thompson, "only set down my observations made at certain places, but they are numerous all over the survey, as every clear day no opportunity was omitted of taking observations for latitude and longitude to correct the courses and distances of the survey."

It was customary to lay up the canoes that descended the river to Lake Superior, as well as those that came up the lake. Mr. Thompson's party had to take a northern canoe twenty-eight feet in length, in a state of dilapidation. They repaired it and fitted it up with two oars, as there were only three men, to encounter the winds and waves of Lake Superior.

In canoes such as that Mr. Thompson here obtained, the fur trade was carried great distances into the interior; in his own words, it "extended to within two or three days' march of the stores and factories of Hudson's Bay."

#### OFFICIAL RECOGNITION OF THE NORTH-WEST COMPANY.

You will endeavour to prevail on them [Indians or Esquimaux] by such reward, and to be paid in such manner, as may best answer the purpose, to carry to any of the settlements of the Hudson's Bay Company, or of the North-West Company, an account of your situation and proceedings; with an urgent request that it may be forwarded to England with the utmost despatch.—*Official instructions of Wm. Edward Parry, Commander of the Expedition, comprising the Hecla and the Gripper, by the Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, May 1, 1819.*

(Signed)

MELVILLE,  
G. MOORE,  
G. COCKBURN.

[The foregoing clause had previously been inserted in the official instructions of John Ross, R. S., Captain Royal Navy, who had command of His Majesty's ships the *Isabella* and the *Alexander*, March 31, 1818, signed Melville, J. S. Yorke, George Hope, and G. Moore, Commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland.]

#### EXTRACTS FROM BENJAMIN FRANKLIN'S LETTERS TO HIS SON.—See *Spark's*

"*Franklin*," vol. 4.

May 10, 1766.—I like the project of a colony in Illinois country, and will forward it to my utmost here.

Aug. 25, 1766.—I can now only add that I shall endeavor to accomplish all that you and your friends desire relating to the settlement westward.

Sept. 12, 1766.—I have just received Sir William's open letter to Secretary Conway, recommending your plan for a colony in the Illinois, which I am glad of. I have closed and sent it to him. He is not now in that Department; but it will of course go to Lord Shelburne, whose good opinion of it I have reason to hope for—and I think Mr. Conway was rather against distant Posts and settlements in America. We have, however, suffered a loss in Lord Dartmouth, who I know was inclined to grants there in favour of the soldiery, and Lord Hillsborough is said to be terribly afraid of dispeopling Ireland. Gen. Lyman has been long here soliciting such a grant, and will readily join the interest he has made with ours; and I should wish for a body of Connecticut settlers, rather than all from our frontiers. I purpose waiting on Lord Shelburne on Tuesday, and hope to be able to send you his sentiments by Falconer, who is to sail about the 20th. A good deal, I imagine, will depend on the account when it arrives of Mr. Crogan's negotiation



in that country. This is an affair I shall seriously set about ; but there are such continual changes here that it is very discouraging to all applications to be made to the Ministry. I thought the last set to be well established ; but they are broken and gone. The present set are hardly thought to stand very firm, and God only knows whom we are to have next. The plan is, I think, well drawn, and, I imagine, Sir William's approbation will go a great way in recommending it, as he is much relied on in all affairs that may have any relation to the Indians. Lord Adam Gordon is not in town, but I shall take the first opportunity of conferring with him. I thank the Company for their willingness to take me in, and one or two others that I may nominate. I have not yet concluded whom to propose it to ; but I suppose our friend Sargent should be one. I wish you had allowed me to name more, as there will be in the proposed country, by reckoning near sixty-three millions of acres, and therefore enough to content a great number of reasonable people ; and by numbers we might increase the weight of interest here. But perhaps we shall do without.

*Sept. 27, 1766.*—I have mentioned the Illinois affair to Lord Shelburne. His lordship has read your plan for establishing a colony there, recommended by Sir William Johnson, and said it appeared to him a reasonable scheme ; but he found it did not quite rate with the sentiments of people here ; that their objections to it were, the distance, which would make it of little use to this country, as the expense on the carriage of goods would oblige the people to manufacture for themselves ; that it would for the same reason be difficult both to defend it and to govern it ; that it might lay the foundation of a Power in the heart of America, which in time might be troublesome to the other colonies, and prejudicial to our government over them ; and the people were wanted both here and in the already settled colonies, so that none could be spared for a new colony. These arguments, he said, did not appear of much weight, and I endeavoured by others to invalidate them entirely. But his lordship did not declare whether he would or would not promote the undertaking, and we are to talk further upon it.

I communicated to him two letters of Mr. Crogan's, with his journal, and one or two of yours on the subject, which he said he would read and consider ; and I left with him one of Evans' maps of the middle colonies, in the small scale part of which I had marked with a wash of red ink the whole country included in your boundaries. His lordship remarked that this would coincide with General Lyman's project, and that they might be united.

*Sept. 30, 1766.*—I have just had a visit from Gen. Lyman, and a good deal of conversation on the Illinois scheme. He tells me that Mr. Morgan, who is Under-Secretary of the Southern Department, is much pleased with it, and we are to go together to talk to him concerning it.

*Oct. 11, 1766.*—I was again with Lord Shelburne a few days since, and said a good deal to him on the affair of the Illinois settlement. He was pleased to say that he really approved of it ; but intimated that every new proposed expense for America would meet with great difficulty here, the Treasury being alarmed and astonished at the growing charges there, and the heavy accounts and drafts continually brought in from thence ; that Major Farmer, for instance, had lately drawn for no less than 30,000 pounds, extraordinary charges, on his going to take possession of the Illinois, and that the Superintendents, particularly the Southern one, began also to draw very largely. He spoke, however, handsomely of Sir William on many accounts.

*Nov. 8, 1766.*—Mr. Jackson has now come to town. The ministry have asked his opinion and advice on your plan of a colony in the Illinois, and he has just sent me to peruse his answer in writing, in which he warmly recommends it, and enforces it by strong reasons, which give me great pleasure, as it corroborates what I have been saying on the same topic, and from him appears less to be suspected of some American bias.

*June 13, 1767.*—The Illinois affair goes forward but slowly. Lord Shelburne told me again last week that he highly approved of it, but others were not of his sentiments, particularly the Board of Trade. Lyman is almost out of patience, and now talks of carrying out his settlers without leave.

*Aug. 28, 1767.*—Last week I dined at Lord Shelburne's, and had a long conversation with him and Mr. Conway (there being no other company) on the subject of reducing the American expenses. They have it in contemplation to return the management of Indian

affairs into the hands of the several provinces on which the nations border, that the colonies may bear the charge of treaties and the like, which they think will be then managed more frugally, the Treasury being tired with the immense drafts of the Superintendents.

I took the opportunity of urging it as one mode of saving expense in supporting the outposts that a settlement should be made in the Illinois country, expatiated on the various advantages, namely, furnishing provisions cheaper to the garrisons securing the country, retaining the trade, raising a strength there, which on occasion of a future war, might easily be poured down the Mississippi upon the lower country, and into the Bay of Mexico, to be used against Cuba, the French islands, or Mexico itself. I mentioned your plan, its being approved of by Sir William Johnson, and the readiness and ability of the gentlemen concerned to carry the settlement into execution with very little expense to Government. The Secretaries appeared finally to be fully convinced, and there remained no obstacle but the Board of Trade, which was to be brought over privately before the matter was referred to them officially. In case of laying aside the Superintendents, a provision was thought of for Sir William Johnson. He will be made Governor of the new colony.

Oct. 9, 1767.—I returned last night from Paris, and just now hear that the Illinois settlement is approved of in the Cabinet Council so far as to be referred to the Board of Trade for their opinion, who are to consider it next week.

Nov. 13, 1767.—Since my return, the affair of the Illinois settlement has been renewed. The King in Council referred the proposal to the Board of Trade, who called for the opinion of the merchants on two points, namely whether the settlement of colonies in the Illinois country and at Detroit might not contribute to promote and extend the commerce of Great Britain; and whether the regulation of the Indian trade might not be best left to the several colonies that carry on such trade—both which questions they considered at a meeting, where Mr. Jackson and I were present, and answered in the affirmative unanimously, delivering their report accordingly to the Board.

Nov. 25, 1767.—As soon as I received Mr. Galloway's, Mr. S. Wharton's, and Mr. Crogan's letters on the subject of the (Indian) *boundary*, I communicated them to Lord Shelburne. He invited me next day to dine with him. Lord Clare was to have been there, but did not come. There was nobody but Mr. Maclean. My Lord knew nothing of the boundaries having been agreed on by Sir William; had sent the letters to the Board of Trade, directing search to be made there for Sir William's letters; and ordered Mr. Maclean to search the Secretary's office, who found nothing. We had much discourse about it, and I pressed the importance of despatching orders immediately to Sir William to complete the affair. His lordship asked who was to make the purchase, that is, who should be at the expense. I said that if the line included any lands within the grants of the charter colonies, they should pay the purchase-money of such proportion. If any within the proprietary grants, they should pay their proportion. But what was within Royal Governments, where the King granted the lands, the Crown should pay for that proportion. His lordship was pleased to say he thought this reasonable. He finally desired me to go to Lord Clare as from him, and urge the business there, which I undertook to do. \* \* \*

I waited next morning on Lord Clare, and pressed the matter of the *boundary* closely upon him. \* \* \* He agreed upon settling it, but thought there would be some difficulty about who should pay the purchase-money; for that this country was already so loaded, it would bear no more. We then talked of the *new colonies*. I found he was inclined to think one near the mouth of the Ohio might be of use in securing the country, but did not much approve that at Detroit. And, as to the trade, he imagined it would be of little consequence, if we had it all, but supposed our traders would sell the peltry chiefly to the French and Spaniards at New Orleans, as he had heard they had hitherto done.

March 13, 1768.—The purpose of settling the *new colonies* seems at present to be dropped, the change of American administration not appearing favourable to it. There seems rather to be an inclination to abandon the posts in the back country, as more expensive than useful. But counsels are so continually fluctuating here that nothing can be depended on. The new Secretary, Lord H., is I find, of opinion that the troops should be placed, the chief part of them in Canada and Florida. \* \* \*



ON THE COLONIZATION OF THE ILLINOIS COUNTRY.—*Extract.**[Sir William Johnson to the Lords of Trade and Plantations.]*

JOHNSON'S HALL, Jan. 31, 1776.

MY LORDS,— . . . I have received the agreeable news of our being in actual possession of the Illinois, the Indians, in consequence of their engagements to Mr. Crogan, having given no obstruction to Captain Stirling or his party, who arrived at Fort Chartres in October last, and were well received.

As the possession of this fine country has been earnestly desired and often in vain attempted since the reduction of Canada, and now proceeds from the late negotiations of my Deputy with the Indians in that quarter, it may not be amiss to offer my thoughts on the best manner for possessing so valuable an acquisition, and render it of real use to the Crown. It will be needless to enlarge upon the natural advantages of soil and situation which this country peculiarly enjoys, these being matters pretty well known; but to avail ourselves of these advantages, it is highly necessary that we should do all in our power to keep the Indians contented, easy, and reconciled to our manners and government, without which we can neither keep up the communication, or retain it for any time, and the difficulties and obstructions which have hitherto prevented our possessing it, by way of the Mississippi are convincing proof of this. Neither is it in our power, with any force to be spared for that service, to ascend the river or cross the country by land to that settlement, if the Indians are at all disposed to obstruct their progress. The settlements at the Illinois extend for many miles above the Kaskaski River along the Mississippi; the land is extremely fine, and capable of raising anything. Some of the present inhabitants may possibly incline to go home, and our traders will, I dare say, choose to purchase their rights; this may be a foundation for a valuable colony in that country, which, once established, would prove very beneficial to Great Britain, as well as a great check to the large cessions obtained of the natives. But to effect this, and every other purpose, their jealousies and dislike must be conquered, and they must be convinced by a series of good management and occasional generosity that their suspicions are groundless.—*N. Y. Hist. Doc. vol. 8.*

## DEBATE IN THE HOUSE OF COMMONS ON THE QUEBEC BILL, SO FAR AS RELATES TO THE BOUNDARIES.

*Mr. T. Townshend, Jun.*—Although I bow very low to all great authorities, I must venture to mention one thing, that when I was calling for regulations for Canada, little did I think, that I was calling for regulations for a country much larger than Canada, a country “extending,” in the words of the Bill, “southward to the banks of the River Ohio, westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the Merchants’ Adventurers of England trading to Hudson’s Bay.” I say, Sir, that when I was calling for regulations for Canada, little did I think that I was calling for an arrangement which, I will venture to say, is oppressive to the English subject, and disagreeable and hateful to the Canadian. . . . I know there prevails an opinion that the best thing that you can do with this country is to make it a French colony, to keep the English out of it as much as possible, that they may not mix with the Canadians. . . . Now, for what purpose are they (the English settlers) to be placed under French laws, unless it is meant to be laid as a foundation that, for the future, French laws are to be the laws of America? If this is to be the case, Sir, that may be a good reason for extending French law to the whole of the Illinois, and to all that is intermediate between Illinois and Canada. You have given up to Canada almost all that country which was the subject of dispute, and for which went to war. We went to war calling it the Province of Virginia. You tell the French it was only a pretext for going to war; that you knew then, you know now, that it was a part of the Province of Canada. . . . I should wish to know why Canada may not be reduced

to some less limits; why not the same limits England and France have ever given it; and why not within some bounds, a little less than that which is given to it here?

*Lord North.*— . . . The first thing objected to by the honourable gentleman is the very great extent of territory given to the Province. Why, he asks, is it so extensive? There are added undoubtedly to it two countries which were not in the original limits of Canada, as settled in the proclamation of 1763: one, the Labrador coast, the other, the country westward of the Ohio and Mississippi, and a few scattered posts to the west. Sir, the addition of Labrador coast has been made in consequence of information received from those best acquainted with Canada and the fishery upon that coast, who deem it absolutely necessary, for the preservation of that fishery, that the Labrador coast should no longer be considered as a part of the government of Newfoundland, but be annexed to that country. With respect to the other additions, these questions very fairly occur. It is well known that settlers are in the habit of going to the interior parts from time to time. Now, however undesirable, it is open to Parliament to consider whether it is fit there should be no government in the country, or, on the contrary, separate and distinct governments; or whether the scattered posts should be annexed to Canada. The House of Lords have thought proper to annex them to Canada; but when we consider that there must be some government, and that it is the desire of all those who trade from Canada to those countries, that there should be some government, my opinion is that if gentlemen will weigh the inconveniences of separate governments, they will think the least inconvenient method is to annex those spots, though few in population, great in extent of territory, rather than to leave them without government all, or make them separate ones. Sir, the annexation likewise is the result of the desire of the Canadians and of those who trade to those settlements, who think they cannot trade with safety so long as they remain separate.

*Mr. T. Townsend, Jun.*— . . . Near the Illinois and Fort Du Cane, I am informed, there are at this time upwards of five-and-twenty thousand British settlers.

*Mr. Dunning.*— . . . The first object of this Bill is to make out that to be Canada, which it was the struggle of this country to say was not Canada. Now, Sir, if this Province should ever be given back to its old masters—and I am not without an inclination to think that the best way would be to give it back to its old masters—if it should ever become right to give back Canada, with what consistency can its future negotiator say to France, we will give you back Canada; not that Canada which you asserted to be Canada, but that stated in the proclamation, having discovered that we were mistaken in the extent of it, which error has been corrected by the highest authority in this country? Then, suppose Canada thus extended should be given back to France, the English settled there will then have a line of frontier to an extent undefined by this Bill; for this country is bounded by the Ohio on the west—God knows where! I wish God alone may not know where. I wish any gentleman would tell us where. I observe in this description of frontier a studied ambiguity of phrase. I cannot tell what it means; but I conjecture that it means something bad. The Ohio is stated as a boundary confirmed by the Crown; but what act, what confirmation by the Crown has passed upon this subject? I know of no such act, of no such confirmation. I know, by the terms of the Charter, the colonists suppose, and I think they are well grounded in the supposition, that they are entitled to settle back as far as they please to the east (? West) to the sea, their natural boundary. They did not like a different barrier. I know some assert this right, and others content themselves with a less extensive claim. Whether so extensive a claim has been allowed, I know not; but I do understand, in point of fact, that there has been long subsisting a dispute about the western frontier, which was never discussed, still less decided; and when this Bill shall become a law, those colonists will then learn that this Parliament, at this hour, have decided this dispute without knowing what the dispute was, and without hearing the parties. Looking, Sir, at the map, I see the River Ohio takes its rise in a part of Pennsylvania, and runs through the Province of Virginia; that, supposing myself walking down the river, all the country to the right, which is at this moment a part of the Province of Virginia, has been lopped off from this part, and has become instead a part of Canada; for, we tell them, the instant they pass that river, which by the terms of the Charter they may pass, that matter is now for ever at rest; the moment, say we, you get beyond that river, you are in the condition in which this Bill professes to put Canada—



the Indian finds himself out of the protection of that law under which he was bred. Sir, do we treat the proprietors of Indiana well? Some of them are resident in this country. I apprehend, at this very hour they are unapprised of this Bill to stop them. To decide questions without exactly knowing whether such questions are existing, is an obvious injustice. . . . I should be glad to learn what is the good intended to be effected by this extent of territory? The noble lord says it is to comprise a few straggling posts under some form of government. If I should admit the necessity of so comprising a few straggling posts, does it follow that this is a form of government fit to be established? Does it follow from any local reasons why Canada should be so extensive, or that the English settlers should be likewise involved? What objections are there to making more settlements? Whatever they are, they will be found trivial compared to the consequence of involving this whole region in this form of government. . . .

*Attorney-General Thurlow.*— . . . The honourable gentlemen complain that the bounds of Canada extend a great way beyond what they were acknowledged to do formerly, and that it was peculiarly bad policy, as far as it regarded the French, to give the limits so great an extension. Now, the House will remember that the whole of Canada, as we allowed it to extend, was not included in the proclamation; that the bounds were not coequal with it as it stood then, and that it is not included in the present Act of Parliament, if that were material. But I will not, Sir, consider it as the Province that formerly belonged to France, nor as called by the same name; it is a new scheme of a constitution adapted for a part of the country, not that part only which was under French government, but embracing many other parts of great extent which were formerly not under French government, but were certainly occupied in different parts by French settlers, and French settlers only. The honourable gentlemen are mistaken if they suppose that the bounds described embrace in point of fact any English settlement. I know of no English settlement embraced by it. I have heard a great deal of the commencement of English settlements; but as far as I have read, they all lie upon the other side of the Ohio. I know at the same time, that there have been for nearly a century past, settlements in different parts of all this tracts, especially in the southern parts of it, and in the eastern (? western) bounded by the Ohio and Mississippi; but with regard to that part, there have been different tracts of French settlements established. As far as they are inhabited by any but Indians, I take those settlements to have been altogether French; so that the objection certainly wants foundation. . . . It is undoubtedly true, if you read the French history, that the bounds prescribed neither are nor ever were the bounds of the Province of Canada, as stated by the French; and therefore the argument is not itself a proper one to proceed upon. . . . With regard to the more southern part of the country, I do not take it that Virginia has ever made a single claim within more than a hundred miles of the bounds prescribed for the present Province. The most extensive claim I ever heard of went to what is called The Endless Mountains, just in a nook of the Province of Virginia (? Pennsylvania). I know of none that ever pretended to exceed that, nor ever heard that some new settlements, which were applied for between these mountains and the Ohio, have ever been looked upon as an invasion of the rights of those who have claims upon the Province of Virginia. . . . I have always understood, also, that it was under that authority, and in conformity with the rule and measure of law, that in every instance, through every period of English history, the King has given to newly-conquered countries their constitution; subject to be corrected by the joint interposition of the King, Lords, and Commons of this country; and that such a constitution might be reformed, by correcting the ill advice, if any ill advice had been given, under which the King had acted in giving them a constitution upon the event and at the moment of the conquest.

*Col. Barre.*— . . . The honourable and learned gentleman was not precise in stating the limits of our colonies. He seemed unwilling for the House to think that any one of the colonies, especially Pennsylvania and Virginia, had a right to settle beyond the Endless Mountains;\* as if the honourable and learned gentleman could be ignorant of the fact that many thousands of English subjects are established some hundred miles beyond the Endless Mountains, upon the very spot which you are now going to make a

\* For the position of the Endless Mountains, see Pownall's map. They are near the northern part of Pennsylvania.

part of this country of Canada. . . . It was, says the noble lord, necessary to take in and to annex the scattered Posts in the neighbourhood of Detroit and Lake Michigan. If the noble lord will be so good as to look at the map, he will find he could have taken in every one of those Posts, and never thrown out any doubt about the shape of Canada ; at the same time that all that part between the Lake and the Ohio would have been kept out by this Bill—and all the purposes of the Bill, except the reference to settling upon the Ohio, would have been answered by his taking that boundary. If there had been any doubt, what would have removed that doubt, would have been looking at the course pursued between the English and French negociators, when the French offered to withdraw from that part of the country which they had taken possession of on the south of the Ohio, and retire to the north side, making that river the boundary of the colony. The English Minister said, “No; we will not submit to those terms. They are not the boundaries; the River St. Lawrence and the lakes are our boundary—we will agree to no other.” Their language now is, the River St. Lawrence is the centre, not the frontier; we will not be deprived of our property in the country.

*Mr. Serjeant Gynne.*— . . . You are incompetent to decide upon the limits of the country, or whether the description of it in the Bill is most conformable to the claim of the French or to our claim before the war; but I shall take it as I find it stated on both sides of the House, namely, that there is to be a newly-erected Province, comprehending a great part of North America, partly inhabited, partly uninhabited; that such parts are to be erected into a Province, in hopes that the population will increase, and that all those parts by degrees will become peopled. . . . In times past, a Minister of the Crown was censured for proposing an arbitrary form of government for the colonies. However objectionable that proposed form of government may have been, we do not find that the powers given to the Governor, on that occasion, were so extensive as those vested in him by this measure. The principles which prevailed in the days of Charles the Second will not, I trust, receive the sanction of the legislature of the present day.

*Solicitor-General Wedderburn.*—It is one object of this measure that these persons (the English) should not settle in Canada. The subjects of this country, in Holland, in the Baltic, and in different parts of the world, where they may go to push their commercial views, look upon England as their home; and it should be our care to keep alive in their breasts this attachment to their native soil. With regard to the other portion of the inhabitants of North America, I think the consideration alters; if the geographical limits are rightly stated, I think one great advantage of this extension of territory is this, that they will have little temptation to stretch themselves northward. I would not say, “Cross the Ohio; you will find the Utopia of some great and mighty empire.” I would say, “This is the border beyond which, for the advantage of the whole empire, you shall not extend yourselves.” It is a regular government; and that government will have authority to make inquiry into the views of native adventurers. As to British subjects within the limits, I believe that there are not five in the whole country. I think this limitation of the boundary will be a better mode than any restriction laid upon government. In the grant of lands, we ought to confine the inhabitants to keep them, according to the ancient policy of the country, along the line of the sea and river.

*Mr. Charles Fox.*— . . . It is not right for this country to originate and establish a constitution in which there is not a spark of semblance of liberty. A learned gentleman has said that by this means we should deter our own countrymen from settling there. Now, Sir, as it is my notion that it is the policy of this country to induce Englishmen to mix as much as possible with the Canadians, I certainly must come to a different conclusion.

MONDAY, June 6.

The House resolved itself into a Committee upon the Bill, Sir Charles Whitworth in the Chair. The first clause was read, viz: “And whereas, by the arrangements made by the said Royal Proclamation, a very large part of the territory [of] Canada, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left without any provision being made for the administration of civil government therein, and other parts of the said country, where sedentary fisheries had been established and carried on by the subjects of



France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, &c., be it enacted that all the said territories, islands, and countries heretofore a part of the territory of Canada, in North America, extending southward to the banks of the River Ohio, westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the Merchants' Adventurers of England trading to Hudson's Bay, and which said territories, islands, and countries are not within the limits of some other British colony, as allowed and confirmed by the Crown, or which have since the 10th of February, 1763, been made part of the government of Newfoundland, be, and they are hereby, during his Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec, as created and established by the said Royal Proclamation of the 7th of October, 1763."

*Lord North.*— . . . There are great difficulties as to the best mode of proceeding. I apprehend the alteration I am about to propose *will save every right where there is a right*. I will explain the amendment I intend to make; if that should not give satisfaction, gentlemen will state what it is they propose to substitute in its stead. We shall then ascertain how far we shall be able to make anything more precise. The question is an extremely difficult one. It is usual to have different boundaries laid down in different manners. Where the King is master of the country, then they are drawn by his Majesty's officers only; where there has been one grant or charter, and it has been necessary to draw any boundary line, then not only His Majesty's officers, but commissioners have been appointed, and together they draw a line, subject, afterwards, to an appeal to the Privy Council—therefore that distinction is made here. It is intended, immediately after the passing of this Act, to go on with the project of running the boundary line between Quebec and New York and Pennsylvania, &c., belonging to the Crown. This is made to prevent the Province of Quebec from encroaching on the limits of any of those grants where no boundary has been settled. I find many gentlemen are desirous of having something more precise, if possible. To this I have no objection; but we are so much in the dark as to the situation of this country, that it is not possible to do anything more safe than saving the rights of the other colonies, leaving them to be settled on the spot by commissioners. Persons possessing local knowledge can act better than we can. For that reason I propose to leave out the words "*heretofore part of the territory of Canada,*" and insert "*extent of country,*" and also leave out the words "*said country,*" and insert "*territory of Canada.*"

*Governor Johnstone.*— . . . My objection to it is, you are going to extend a despotic government over too large a surface; and that you are going to establish a boundary line with a pretence of bringing it within the line of justice where God and nature are against you. The pretence that is held out to induce this House to accede to the measure is, first, that with the former government of Quebec, Canada did extend so far, and that as we are about to give the Canadians back their old laws, we ought at the same time to give them back what has been asserted in this House to have been their ancient territory. . . . Now, Sir, as I had the honour of being appointed Governor of West Florida, it became my duty to make myself acquainted with the boundaries of Louisiana, and I accordingly endeavoured to obtain the best information upon that subject. I was surprised, therefore, to hear it given in evidence, not directly, but insinuated, that the former Government of Canada extended as far as you propose to make it. One of the reasons given by General Carleton for this extension of country, was that the inhabitants of these remote parts might be under the direction of the Government of Canada.

*Mr. Edmund Burke.*—If we had originated this measure above stairs, where maps might have been laid upon the table, no doubt the whole dispute of this day would have been avoided. I shall ask for the attention of the Committee, partly that they may understand me; partly that I may understand myself. In the first place, when I heard that this Bill was to be brought in on the principle that Parliament were to draw a line of circumscription about the colonies, and to establish a siege of arbitrary power, by bringing round about Canada the control of other people, different in manners, language, and laws from those of the inhabitants of this colony, I thought of it the highest importance that we should endeavour to make this boundary as clear as possible. I conceived it necessary for those who are to be besieged in this manner; and also necessary for the British subject, who

should be restricted, and not be allowed unknowingly to venture into the colony and disturb its possessors. I wish these limits to be ascertained, and fixed with precision, for the sake of both parties. Having this object in my view, I shall first consider the line drawn in the proclamation of 1763. It was drawn from a point taken in the lake called Nipissim; that lake stands to the north of this point. I entreat the attention of the Committee; for the escape of a word is the escape of the whole argument. Sir, this boundary was fixed by a line drawn obliquely from Lake Nipissim, which line crossing the St. Lawrence and the Lake Champlain, formed an angle in the latitude of forty-five degrees. This constituted the south-west boundary of Canada; beyond that the Province was to extend no further—and confined within this limit it remained from the year 1763 to this time. That was then the boundary of Canada; and when that boundary was formed, that was the boundary of the government—and that boundary was fixed there because it was the boundary of the possession. There was then no considerable settlement to the south-west of that line. This line the people of Canada acquiesced in. They have since come before His Majesty's government, and have laid before it a complaint in which they state that this was a line drawn especially for the purpose of territorial jurisdiction, and the security of property; but they represent that it is a line ill-suited for a growing country. They do not complain that they have not the legal limits, but they complain of the climate to which they are restricted. "The Province," they say, "as it is now bounded, by a line passing through the forty-fifth degree of north latitude, is confined within too narrow limits; this line is only fifteen leagues distant from Montreal, and yet it is only on this side that the lands of the Province are fertile, and that agriculture can be cultivated to much advantage." Sir, if no injustice will thereby be done to any one, I don't know a more reasonable request than that their complaint should be attended to. . . . The noble lord showed me the amendment, which by no means relieved my apprehensions. The reason why I feel so anxious is, that the line proposed is not a line of geographical distinction merely; it is not a line between New York and some other English settlement; it is not a question whether you shall receive English law and English Government upon the side of New York, or whether you shall receive a more advantageous government upon the side of Connecticut; or whether you are restrained upon the side of New Jersey. In all these you still find English laws, English customs, English juries, and English assemblies, wherever you go. But this is a line which is to separate a man from the right of an Englishman. First, the clause provides nothing at all for the territorial jurisdiction of the Province. The Crown has the power of carrying the greatest portion of the actually settled portion of the Province of New York into Canada. . . . The Bill turns freedom itself into slavery. These are the reasons that compel me not to acquiesce by any means, either in the proposition originally in the Bill, or in the amendment. Nay, the proposition in the amendment is a great deal worse, because you therein make a saving of the right of interference with, and may fix your boundary line at the very gates of, New York, perhaps in the very town itself, and subject that colony to the liability of becoming a Province of France. It was this state of things, Sir, that made me wish to establish a boundary of certainty. The noble lord has spoken upon this subject with a great deal of fairness. He says that if any gentleman will find a boundary of certainty, he will accept it. Whether, if we shall be able to find such a boundary, the colony of New York will be satisfied with it, I know not; but speaking here as a Member of Parliament, I do think the colony had better have a boundary much less in extent, yet reduced to such a certainty that they may exactly know when and where they cease to be English subjects. The boundary originally settled between Canada and New York was entitled to contest with the Crown under the first proclamation. That was given up. I am glad the noble lord has got a map before him. They gave up a vast extent of country. I recommended them to give up for peace all that part which lies between that country and the River St. Lawrence, and to take their departure from a line drawn through Lake Champlain in forty-five degrees of latitude, as far as the River St. Lawrence, then following the course of that river through Lake Ontario and Lake Erie, to make it the western bound of the colony of Pennsylvania. These limits and bounds would give New York a territory sufficient to enable it to meet every exigency of government. It would give the Crown a boundary of certainty; it would give the people of Canada a certainty of knowing upon



what side of the water their territory began; and it would give the subjects of Great Britain the power of knowing where they can be free. . . . He does not know enough of the state of that country to be able to adopt the line which he has drawn; whereas nothing can be more geographically distinguished than water and land. This boundary is physically distinguished; it is astronomically distinguished. It has been fixed by actual observation, and agreed upon by the surveyors. We have everything that geography, astronomy, and general convenience, stronger sometimes than either, can give to make this boundary definite. I shall therefore now move the boundary which I have proposed, viz., by a line drawn from a point on the east side of Lake Champlain in 45 degrees north latitude, and by a line drawn in that parallel west to the River St. Lawrence, and up that river to Lake Ontario, and across that lake to the River Niagara, and from Niagara across Lake Erie to the north-west point of the boundary of Pennsylvania, and down the west boundary of that Province, by a line drawn from thence till it strikes the Ohio. If the noble lord admits this proposition, the Committee will no doubt be able to express it in proper words; if not, I must beg that we may receive information from a gentleman who can abundantly inform the House, and who is as ready to communicate it as any man I ever knew.\*

*Lord North.*—We agree in principle, and I hope we shall succeed in drawing a clear boundary line; but I am doubtful whether a clear boundary line can be drawn by Parliament. It strikes me that the only method is to leave it to be drawn after the passing of the Act, leaving it in such a manner that the line where drawn shall actually form a clear line between the Province of Canada and New York. The line as far as it appears by the map is very distinct. The objection I have is precisely what the honourable gentleman has mentioned. I am not clear whether there are not on the south-east part of the River St. Lawrence, Canadian settlements. I have been informed there are. I am sure there are no New York settlements in that part of the world. I think it more prudent to have the boundary line settled upon the spot, reserving, in the Act, all those lands that have been granted under any authority to the old settlers. . . . It is my opinion that all this uninhabited country added to Canada or added to New York should not be immediately considered as country which the Government are to grant away. . . . I rise up at present to confirm the declaration I have made, that if a clear line can be made to the satisfaction of gentlemen, so that they are not likely to involve themselves by drawing a line in Westminster which would be better drawn in America, I shall not opine it, but shall be very thankful to the gentleman who can draw that line.

*Mr. Burke.*— . . . If Canada is in future to have boundaries determined by the choice of the Crown, the Crown is to have the power of putting a great part of the subjects of England under laws which are not the laws of England. The government of France is good—all government is good—but compared with the English government, that of France is slavery. . . . The parties here are English liberty and French law; and the whole Province of New York, further than it is defined by actual bound, is in the power of the Crown, not to adjudicate, but to grant, and hand over to the French. I do not suppose if the Crown were under the necessity of adjudging, that it would adjudge amiss; but it is in the power of the Crown to grant even its power of adjudging. Where put on the English side, they are put in the power of the laws; where put on the French side, they are put out of the power of the laws. Let us consider, then, whether it is not worth while to give a clear boundary, and let the man know whether he is or is not an Englishman. I shall take the sense of the Committee upon it. I am as much in earnest as ever I was in my life. I have produced a practical idea; I can produce practical words.

After a long and desultory conversation, the words proposed by Mr. Burke were inserted. The words—"Until it strike the Ohio; and along the banks of the said river, westward to the banks of the Mississippi, and northward to the southern boundary of the territory of the Merchants' Adventurers of England trading to Hudson's Bay; and also all such territories, islands and countries, which have, since the 10th of February, 1763, been made part of the government of Newfoundland, be, and they are hereby, during His

\* Mr. Pownall, the Under-Secretary for the American colonies.

Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec"—were next read.

On June 10th, Sir Charles Whitworth reported to the House the amendments which the Committee had made to the Bill. The first clause being read, there was much puzzling about settling the boundary line. Mr. Edmund Burke, Mr. Jackson, Mr. Barker, and Sir Charles Whitworth went up stairs, in order to settle it, while the House was supposed to be proceeding upon it. The House continued for a least half-an-hour, doing nothing in the meantime. The difference was, whether the tract of country not inhabited should belong to New York or Canada? At five o'clock, Mr. Burke returned with the amendments, some of which were agreed to, others not. The following is the clause, as finally agreed to by the House:

"That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the islands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the sea, to a point in forty-five degrees of northern latitude on the western bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude, it meets the River St. Lawrence; from thence up the eastern bank of the said river to the Lake Ontario; thence through the Lake Ontario and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province until the said western boundary strike the Ohio; but in case the said bank of the said Lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania, and thence by a right line to the said north-western angle of the said Province; and thence along the western boundary of the said Province until it strike the River Ohio; and along the bank of the said river, westward, to the *banks* of the Mississippi, and northward to the southern boundary of the territory granted to the Merchants' Adventurers of England trading to Hudson's Bay; and also all such territories, islands, and countries which have, since the 10th of February, 1763, been made part of the government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to and made part and parcel of the Province of Quebec, as created and established by the said Royal Proclamation of the 7th of October, 1763.

"Provided always, that nothing herein contained, relative to the boundary of the Province of Quebec, shall in anywise affect the boundaries of any other colony." \*

PROCLAMATION BY GENERAL GAGE, 1764.

[Captain Stirling was despatched in 1765 by General Gage to take possession of the posts and settlements of the French in the Illinois country east of the Mississippi. Upon his arrival, St. Ange surrendered Fort Chartres, and retired with the garrison of twenty-one men, and a third of the inhabitants of that settlement, to St. Louis, where he exercised the duties of commandant by the general consent of the people, till he was superseded by the Spanish governor, Piernes, in 1770. Upon assuming the government of the country, Captain Stirling published the following proclamation from General Gage, who was at this time the Commander-in-Chief of the British forces in North America:—]

"Whereas, by the peace concluded at Paris, the tenth day of February, 1763, the country of Illinois has been ceded to His Britannic Majesty, and the taking possession of the said country of the Illinois by the troops of His Majesty, though delayed, has been determined upon: We have found it good to make known to the inhabitants—

\* This section excluded the English colonists from the St. Lawrence, the Great Lakes, and the Mississippi.



"That His Majesty grants to the inhabitants of the Illinois, the liberty of the Catholic religion, as has already been granted to his subjects in Canada. He has consequently given the most precise and effective orders to the end that his new Roman Catholic subjects of the Illinois may exercise the worship of their religion according to the rites of the Romish Church, in the same manner as in Canada.

"That His Majesty moreover agrees that the French inhabitants or others, who have been subjects of the Most Christian King (the King of France) may retire in full safety and freedom wherever they please, even to New Orleans, or any part of Louisiana; although it should happen that the Spaniards take possession of it in the name of his Catholic Majesty (the King of Spain), and they may sell their estates, provided it be to the subjects of His Majesty, and transport their effects as well as their persons, without restraint upon their emigration, under any pretence whatever, except in consequence of debts or of criminal processes.

"That those who choose to retain their lands and become subjects of His Majesty, shall enjoy the same rights and privileges, the same security for their persons and effects, and the liberty of trade, as the old subjects of the King.

"That they are commanded by these presents to take the oath of fidelity and obedience to His Majesty in presence of *Sieur Stirling*, Captain of the Highland Regiment, the bearer hereof, and furnished with our full powers for this purpose.

"That we recommend forcibly to the inhabitants to conduct themselves like good and faithful subjects, avoiding, by a wise and prudent demeanour, all causes of complaint against them.

"That they act in concert with His Majesty's officers, so that his troops may take possession of all the forts, and order be kept in the country. By this means alone they will spare His Majesty the necessity of recurring to force of arms, and will find themselves saved from the scourge of a bloody war, and of all the evils which a march of an army into their country would draw after it.

"We direct that these presents be read, published, and posted up in the usual places.

"Done and given at head-quarters, New York, signed with our hands, sealed with our seal at arms, and countersigned by our Secretary, this 30th of December, 1764.

"THOMAS GAGE.

"By his Excellency :

"G. MASTURIN."

## FRENCH SETTLEMENTS AT TIME OF TREATY OF 1763.

EXTRACTS FROM *The Present State of the European Settlements on the Mississippi*, BY CAPTAIN PHILIP PITMAN, 4to. LONDON, 1770.

"FORT CHARTRES, when it belonged to France, was the Seat of Government of the Illinois. The head-quarters of the English commanding-officer is now here, who, in fact is the *arbitrary governor* of this country. The fort is an irregular quadrangle; the sides of the exterior polygon are 490 feet. It is built of stone, is plastered over, and is only designed as a defence against the Indians. The walls are two feet two inches thick, and are pierced with loop-holes at regular distances, and with two port-holes for cannon in the faces, and two in the flanks of each bastion. The ditch has never been finished. The entrance to the fort is through a very handsome rustic gate. Within the walls is a banquettes raised three feet, for the men to stand on when they fire through the loop-holes. The buildings within the fort are—a commandant's and a commissary's house, the magazine of stores, corps de garde and two barracks; these occupy the square. Within the gorges of the fort are a powder-magazine, a bake-house and a prison, in the lower floor of which are four dungeons, and in the upper, two rooms, and an out-house belonging to the commandant. The commandant's house is thirty-two yards long, and ten broad, &c. The commissary's house (now occupied by officers) is built on the same line as this, and its proportion and the distribution of its apartments are the same. Opposite these are the store-house and the guard-house; they are each thirty yards long and eight broad. The former consists of two large store-

rooms (under which is a large vaulted cellar, a large room, a bed-chamber, and a closet for the store-keeper; the latter, of a soldiers' and officers' guard-room, a chapel, a bed-chamber, a closet for the chaplain and an artillery store-room. The lines of barracks have never been finished; they at present consist of two rooms each for officers, and three rooms each for soldiers. They are each twenty feet square, and have betwixt them a small passage. There are five spacious lofts over each building, which reach from end to end; these are made use of to lodge regimental stores, working and entrenching tools, &c. It is generally believed that this is the most convenient and best-built fort in North America."

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[In 1756, Fort Chartres was rebuilt by order of the French Government, in view of the war with England. It was then half-a-mile from the Mississippi. In 1766 it was but eighty yards from the bank. In 1768 Captain Pitman writes: ]

"The bank of the Mississippi, next the fort, is continually falling in, being worn away by the current, which has been turned from its course by a sand-bank, now increased to a considerable island, covered with willows. Many experiments have been tried to stop this growing evil, but to no purpose. Eight years ago the river was fordable to the island; the channel is now forty feet deep.

"In the year 1764, there were about forty families in the village near the fort, and a parish church, served by a Franciscan friar, dedicated to Ste. Anne. In the following year, when the English took possession of the country, they abandoned their houses, except three or four poor families, and settled in the villages on the west side of the Mississippi, choosing to continue under the French Government."

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[In 1772, the channel of the river reached the fort and the wall, and two bastions upon the west side were undermined, and fell, and the British garrison abandoned the place, and Kaskaskia became the Seat of Government for the Illinois country.\*]

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"The Village of Notre Dame de Cascasquias is by far the most considerable settlement in the country of Illinois, as well for its number of inhabitants, as for its advantageous situation.

"Mons. Paget was the first who introduced water-mills in this country, and he constructed a very fine one on the river Cascasquias, which was both for grinding corn and sawing boards. It lies about one mile from the village. The mill proved fatal to him, being killed as he was working in it, with two negroes, by a party of Cherokees, in 1764.

"The principal buildings are the church and Jesuits' house, which has a small chapel adjoining it; these, as well as some other houses in the village, are built of stone, and, considering this part of the world, make a very good appearance. The Jesuits' plantation consisted of two hundred and forty arpents of cultivated land, a very good stock of cattle, and a brewery, which was sold by the French commandant, after the country was ceded to the English, for the Crown, in consequence of the suppression of the Order.

"Mons. Beauvais was the purchaser, who is the richest of the English subjects of this country. He keeps eighty slaves; he furnishes eighty-six thousand weight of flour to the King's magazine, which was only a part of the harvest he reaped in one year.

"Sixty-five families reside in this village, besides merchants, other casual people, and slaves. The fort, which was burnt down in October, 1766, stood on the summit of a high rock opposite the village, and on the opposite side of the Kaskaskin river. It was an oblongular quadrangle, of which the exterior polygon measured two hundred and ninety feet

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\* For a very minute and interesting description of Fort Chartres, see Dr. Beck's *Gazeteer of Illinois*; 1820: "Over the whole Fort, there is a considerable growth of trees, and in the hall of the houses, there is an oak about eighteen inches in diameter. . . . Trees more than three feet in diameter are within the walls. It is a ruin in the midst of a dense forest, and did we not know its history, it might furnish a fruitful theme for antiquarian speculation."



by two hundred and fifty-one feet. It was built of very thick squared timber, and dove-tailed at the angles. An officer and twenty soldiers are quartered in the village. The officer governs the inhabitants, under the direction of the commandant at Chartres. Here are also two companies of militia."

"LA PRAIRIE DE ROCHES is about seventeen miles from Cascasquias. It is a small village, consisting of twelve dwelling houses, all of which are inhabited by as many families. Here is a little chapel, formerly a chapel-of-ease to the church at Fort Chartres. The inhabitants here are very industrious, and raise a great deal of corn, and every kind of stock. The village is two miles from Fort Chartres. It takes its name from its situation, being built under a rock that runs parallel with the river Mississippi, at a league distance, for forty miles up. Here is a company of militia, the captain of which regulates the police of the village.

"SAINT PHILLIPPE is a small village about five miles from Fort Chartres, on the road to Kaoquias. There are about sixteen houses and a small church standing. All the inhabitants, except the captain of the militia, deserted it, in 1765, and went to the French side. The captain of the militia has about twenty slaves, a good stock of cattle, and a water-mill for corn and planks. This village stands in a very fine meadow, about one mile from the Mississippi."

"The village of SAINTE FAMILLE DE KAOQUIA (Cahokia) is generally reckoned fifteen leagues from Fort Chartres, and six leagues below the mouth of the Missouri. It stands near the side of the Mississippi, and is marked from the river by an island of two leagues long. The village is opposite to the centre of this island; it is long and straggling, being three-quarters of a mile from one end to the other. It contains forty five dwelling-houses, and a church near its centre. The situation is not well chosen, as in the floods it is generally overflowed two or three feet. This was the first settlement on the Mississippi. The land was purchased of the savages by a few Canadians, some of whom married women of the Kaoquias nation, and others brought wives from Canada, and then resided there, leaving their children to succeed them. The inhabitants of this place depend more on hunting and their Indian trade, than on agriculture, as they raise scarcely corn enough for their own consumption; they have a great plenty of poultry, and good stocks of horned cattle. The Mission of St. Sulpice had a very fine plantation here, and an excellent house built on it. They sold this estate, and a very good mill for corn and planks, to a Frenchman who chose to remain under the English Government. They also disposed of thirty negroes, and a good stock of cattle to different people in the country, and returned to France in 1764. What is called the Fort, is a small house standing in the centre of the village. It differs nothing from the other houses, except in being one of the poorest. It was formerly enclosed with high palisades, but these were torn down and burnt. Indeed, a fort at this place could be of little use."

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EXTRACTS FROM THE DIARY OF COLONEL CROGHAN, DEPUTY-SUPERINTENDENT OF THE NORTHERN INDIAN DEPARTMENT.

[Colonel George Croghan, the Commissioner of Sir William Johnson, went to the west to learn the disposition of the French inhabitants, and to secure if possible, their adhesion to the English interest; and to prevent a second Indian war. He left Fort Pitt on the 15th of May, 1764, and was taken prisoner on the 8th of June by a party of Indians, and was carried to VINCENNES. He says:] "On my arrival there, I found a village of about eighty or ninety French families settled on the *east* side of this river, being one of the finest situations that can be found. The country is level and clear and the soil very rich, producing wheat and tobacco. I think the latter preferable to that of Maryland or Virginia. The French inhabitants hereabout are an idle, lazy people, a parcel of renegaders from Canada, and are much worse than the Indians. They took a secret pleasure at our misfortunes, and the moment we arrived, they came to the Indians, exchanging trifles for their valuable plunder. As the savages took from me a considerable quantity of gold and silver in specie, the French traders extorted two half-johannes from them for one pound of vermilion.

"Here is likewise an Indian village of the Pyankeshaws, who were much displeased with the party that took me, telling them 'our chiefs and your chiefs have gone to make peace;

and you have begun a war, for which our women and children will have reason to cry.' From this post, the Indians permitted me to write to the Commander at Fort Chartres, but would not suffer me to write to anybody else (this, I apprehend, was a precaution of the French, lest their villainy should be perceived too soon), although the Indians had given me permission to write to Sir William Johnson and Fort Pitt on our march, before we arrived at this place. But immediately after our arrival, they had a private council with the French, in which the Indians urged (as they afterwards informed me) that as the French had engaged them in so bad an affair, which was likely to bring a war on their nation, they now expected a proof of their promise and assistance. They delivered the French a scalp and a part of the plunder, and wanted to deliver some presents to the Pyankeshaws, but they refused to accept of any, and declared that they would not be concerned in the affair. This last information I got from the Pyankeshaws, as I have been well acquainted with them several years before this time.

"POST VINCENT is a place of great consequence for trade, being a fine hunting country all along the Ouabache (Wabash), and too far for the Indians, which reside hereabouts, to go either to the Illinois or elsewhere to fetch their necessaries.

"*June 23.*— . . . . The distance from Post Vincent to OUCATANON is 219 miles. This place is situated on the Ouabache. About fourteen French families are living in the Fort, which stands on the north side of the river. The Kickapoos and Musquattinees, whose warriors had taken us, live nigh the fort, on the same side of the river, where they have two villages; and the Ouicatanons have a village on the south side of the river. At our arrival at this post, several of the Wawcattonans (or Ouicatanons), with whom I had been formerly acquainted, came to visit me, and seemed greatly concerned at what had happened. They went immediately to the Kickapoos and Musquattinees, and charged them to take the greatest care of us till their chiefs should arrive from the Illinois, where they were gone to meet me some time ago, and who were entirely ignorant of this affair, and said the French had spirited up this party to go and strike us.

"The French have a great influence over these Indians, and they never fail in telling them many lies to the prejudice of his Majesty's interest, by making the English nation odious and hateful to them. I had the greatest difficulties in removing these prejudices. As these Indians are a weak, foolish, and credulous people, they are easily imposed on by a designing people, who have led them hitherto as they pleased. The French told them that as the Southern Indians had for two years past made war on them, it must have been at the instigation of the English, who are a bad people. However, I have been fortunate enough to remove their prejudice, and in a great measure their suspicions against the English. The country hereabouts is exceedingly pleasant, being open and clear for many miles, the soil very rich and well watered, all plants have a quick vegetation, and the climate very temperate through the winter. This post has always been a very considerable trading place. The great plenty of furs taken in this country, induced the French to establish this post, which was the first upon the Ouabache; and by a very advantageous trade, they have been richly recompensed for their labour.

"*August 1.*—The TWIGTWE village is situated on both sides of a river called the St. Joseph. This river, where it falls into the Miami river, about a quarter of a mile from this place, is about one hundred yards wide, on the east side of which stands a stockade fort, somewhat ruinous.

"The Indian village consists of about forty or fifty cabins, besides nine or ten French houses, a runaway colony from Detroit, during the Indian war; they were concerned in it and being afraid of punishment, came to this post, where, ever since, they have spirited up the Indians against the English. All the French residing here are a lazy, indolent people, fond of breeding mischief and spiring up the Indians against the English, and should by no means be suffered to remain here. The country is pleasant, the soil rich and well watered. After several conferences with these Indians, and their delivering me up all the English prisoners they had, on the 6th of August we set out for Detroit, down the Miami river, in a canoe.

"*August 17.*—In the morning we arrived at the fort, which is a large stockade, inclosing about eighty houses; it stands close on the north side of the river, on a high bank, commands a very pleasant prospect for nine miles above and nine miles below the fort; the country is thickly settled with French; their plantations are generally laid out about three or



four acres in breadth on the river, and eighty acres in depth ; the soil is good, producing plenty of grain. All the people here are generally poor wretches, and consist of three or four hundred French families, a lazy, idle people depending chiefly on the savages for their subsistence ; though the land, with little labour, produces plenty of grain, they scarcely raise as much as will supply their wants, in imitation of the Indians, whose manners and customs they have entirely adopted, and cannot subsist without them. The men, women, and children speak the Indian tongue perfectly well. In the last Indian war, the most part of the French were concerned in it (although the whole settlement had taken the oath of allegiance to His Britannic Majesty) ; they have therefore great reason to be thankful to the English clemency in not bringing them to deserved punishment. Before the late Indian war, there resided three nations of Indians at this place—the Putawatimes, whose village was on the west side of the river, about one mile below the fort ; the Ottawas on the east side about three miles above the fort ; and the Wyandottes, whose village lies on the east side, two miles below the fort. The former two nations have removed to a considerable distance, and the latter still remain where they were, and are remarkable for their good sense and hospitality. They have a particular attachment to the Roman Catholic religion ; the French by their priests have taken uncommon pains to instruct them.”

“ July 18, 1765.—I set off for the Illinois with the chiefs of all those nations, when by the way, we met with Pontiac, together with the deputies of the Six Nations, Delawares, and Shawanees, which accompanied Mr. Frazer and myself down the Ohio, and also deputies with speeches from the four nations living in the Illinois country, to me and Six Nations, Delawares, and Shawanees, on which we returned to Onitanon, and there held a conference, in which I settled all matters with the Illinois Indians, Pontiac and they agreeing to everything the other nations had done. . . . The French had informed them that the English intended to take their country from them, and give it to the Cherokees to settle on, and that if ever they suffered the English to take possession of their country, they would make slaves of them, that this was the reason of their opposing the English hitherto from taking possession of Fort Chartres. . . . They desired that their Father, the King of England, might not look upon his taking possession of the forts which the French had formerly possessed, as a title for its subjects to possess their country, as they have never sold any part of it to the French, and that I might rest satisfied that whenever the English came to take possession, they would receive them with open arms.”—*Croghan's Diary* ; also *N. Y. Hist. Doc. Vol. 8, p. 781.*

Rogers says, in his *Account of North America* : “ When I took possession of the country (Detroit) soon after the surrender of Canada, they were about 2,500 in number, there being near 500 that bore arms, and near 300 dwelling-houses.” (p. 168.)

“ In 1764 there were but men enough to form three companies of militia.”—Mante's *History of the War in North America*, p. 525.

In 1768, the census, when taken, showed the population to be 572.

Bancroft says that he has a MS. in his possession containing the recollections of Madame Catherine Thibau, in which it is stated that “ about sixty French families in all when the English took possession of the country ; not more than eighty men at the time. Very few farms ; not more than seven or eight farms settled.”

FROM THOUGHTS ON INDIAN AFFAIRS, BY COLONEL BROADSTREET.—*Extract.*

“ I am assured, by persons lately from Illinois, that exclusively of the French garrison there, the inhabitants are six hundred fighting men, have one thousand negroes, well accustomed to the use of arms, averse to our taking of the country, and having painted us

in such colours to the numerous savages near them, that the latter will certainly endeavour to prevent the troops getting there by the Mississippi, even should the Indians near the sea allow them to pass, which they think they will not, unless well paid for it, which will not answer, what may perhaps be expected. They add that this is their opinion also, that all attempts to get possession of the Illinois with less than three thousand men will fail, and that those troops should go down the Ohio River, and that the expedition be carried on with such secrecy, that they may enter the Mississippi ninety miles below Fort Chartres, before the inhabitants can have intelligence of it, and time to apprize all the savages."—*N. Y. Hist. Doc., vol. 8, p. 693.*

[These statements differ very widely. This difference may in some measure be accounted for by remembering that the men were nearly all fur-traders, and that after the war with Pontiac was over, many went to Mackinac, to Nipigon, Grand Portage, Green Bay, and other points, to carry on the trade of the north-west. Some families went beyond the Mississippi, to avoid becoming subjects of Great Britain, not knowing that France had ceded Louisiana to Spain.]

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## FURTHER EXTRACTS AS TO BOUNDARY OF LOUISIANA AND NEW FRANCE.

### EXTRACT FROM THE CHARTER GRANTED TO M. CROZAT, 1712.

In the Grant of Louisiana to Crozat made by Louis XIV., in September, 1712, he is empowered "to carry on exclusively the trade in all our territories by us possessed and bounded by New Mexico, and by those of the English in Carolina; all the establishments, ports, harbours, rivers, and especially the port and harbour of Dauphin Island, formerly called the Massacre Island, and the River St. Louis, formerly called the Mississippi, from the sea shore to the Illinois; together with the River St. Philip, formerly called the Missouri river, and the St. Jerome, formerly called the Wabash (the Ohio), with all the countries, territories, lakes inland, and the rivers emptying directly or indirectly in that part of the River St. Louis. All the said territories, countries, streams and islands, we will to be and remain comprised under the name of the government of Louisiana, *which shall be dependent on the general government of New France*, and remain subordinate to it; and we will, moreover, that all the territories which we possess on this side of the Illinois (country) be united, as far as need, to the general government of New France, and form a part thereof, reserving to ourselves to increase if we think proper, the extent of the government of the said country of Louisiana."

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In the Grant made to the Mississippi Company, upon the surrender by M. Crozat of his grant, the boundary of Louisiana was extended northward to the Illinois river, and beyond this it does not appear that, by any act of the French Government, it ever had more extensive limits given to it.

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Mr. Parkman, in his "Discovery of the Great West," says, "the boundaries are laid down on the great map of Franquelen, made in 1684, and preserved in the Depot des Cartes of the Marine. The line runs along the south shore of Lake Erie, and thence follows the heads of the streams flowing into Lake Michigan. It then runs north-west, and is lost in the vast unknown of the now British Territories. On the south it is drawn by the heads of the streams flowing into the Gulf, as far west as Mobile, after which it follows the shore of the Gulf to a little south of the Rio Grande, then runs west, north-west, and finally north along the range of the Rocky Mountains." *Note on page 284.* [This map is obviously founded on the *Proces Verbal*, by which La Salle took possession of the Valley of the Mississippi on behalf of the King of France.]



"The official maps used by France in her negotiations with Great Britain incontestibly prove that the country north and north-west of the Mississippi was ceded as the Province of Canada." *T. Falconer on the North-West Boundary*, pp. 87, 88; *Mofras' Explorations in Oregon and California*; *French's Documents relating to the History of Louisiana*.

#### EXTRACT FROM MOFRAS' "CALIFORNIA."

[NOTE.—M. Mofras was a member of the French Legation at Mexico. His book was published by the authority of the French Government.—(See *Falconer's Mississippi*, p. 88.)]

"The treaty recognizing the independence of the United States, signed by England in 1782, those of the 20th January and 30th September, 1783, as also the treaties of 1794 and 1795, make no mention in the article, frontiers of the territories situated to the west of the Rocky Mountains. The latter only stipulates that the possessions of the Hudson's Bay Company shall not be accessible to citizens of the United States. Now, if the boundaries between New France and that Company were not clearly defined, even after the Treaty of Utrecht in 1711, and that of the cession of Canada in 1763, it is undeniable that either New France or the possessions of the H. B. Company extended as far as the Pacific Ocean, and that if the Spaniards first explored the north-western coast of America, the French first discovered the interior of the continent proceeding from the east westwards. All the old maps, in this in accord with the most reliable authors, only place the boundary of the French possessions in Canada at the Southern sea. L'Escarbot, who wrote in 1617, among others, states as follows:—'Thus our New France has for its limits, on the western side the lands as far as the sea called the Pacific, on this side the Tropic of Cancer; on the south the Islands of the Atlantic sea, in the direction of Cuba and the island of Hispaniola; on the east by the Northern sea, which bathes New France, and on the north that land called Unknown, to-wards the icy sea as far as the Arctic pole.' Lastly, in a map engraved in 1757, and attached to the Memorials of the Commissioners of the Kings of France and of England in America, it may be observed that New France extended as far as the Pacific Ocean, and it shows on the western coast of America, at the 46th degree, a large river running in a direction which corresponds exactly with that of the Rio Columbia. There is, moreover, nothing surprising in this specific description since, from 1711 to 1754, the Captains-General of New France sent out numerous expeditions to the western part of Canada; and after thirty years of uninterrupted explorations under the enlightened government of the Marquis de Beauharnois, an officer, M. de la Verendrye, acquired a thorough knowledge of the river and of the western sea, which were no other than the Pacific Ocean and the Columbia."

#### FURTHER EXTRACTS\* WITH RESPECT TO EARLY DISCOVERIES AND SETTLEMENTS BY FRENCH—1717-1747.

*Conseil de Marine*, 7th December, 1717.

Messieurs de Vaudreuil and Begon having written last year that the discovery of the Western Sea would be advantageous to the colony, it was approved that, to reach it, M. de Vaudreuil should establish three posts which he had proposed, and he was instructed at the same time to have the same established without any expense accruing to the King—as the person establishing them would be remunerated by trade—and to send a detailed schedule of the cost of continuing the discovery. In reply it is stated that M. de Vaudreuil in the month of July last caused the Sieur de la Noue, Lieutenant, to set out with eight cannon to carry out this scheme of discovery. He gave him instructions to establish the first post at the River Kamastiquoya, to the north of Lake Superior, after which he is to go to Takamamiononio, near the Christianaux Lake to establish a second, and to acquire through the

\* Library of Parliament MSS., 3rd series, vol. 6, pp. 529, 530.

Indians the information necessary for the establishment of the third at the Lake of the Assenipoelles.

This journey costs the King nothing, because those engaged in it will be remunerated for their outlay by the trade which they will engage in; but to follow up the discovery it is absolutely necessary that his Majesty should bear the expense, because the persons employed in it will have to give up all idea of trade.

They estimate that 50 good canoemen (*voyageurs*) will be required; of these, 24 will occupy the three posts, and the 26 others will be engaged in making the discovery from the lake of Assenipoelles to the Western sea. They calculate the wages of these men at 300 francs a year each, and estimate that the expenditure as well for provisions and canoes, as for goods for presents, will amount to..... f.29,023 10

There will have to be added, for supplementary outfit, 600 francs for each of the 6 officers employed in the discovery..... 3,600 10

Total..... 32,623 20

As it will take about two years to make this journey, they estimate that the expenditure may amount to fifty thousand francs.

#### PARIS DOCUMENTS, IX.

(P. 38, *N. Y. Hist. Coll.* Vol. 10.)

EXTRACT from an Abstract, in form of a Journal, of the most interesting occurrences in the Colony, in reference to military movements, and of the various intelligence received, since the departure of the ships in November, 1746.

(P. 119, *N. Y. Hist. Coll.*, Vol. 10.)

*August 13.*—Captain de Noyelle and Sieur de La Verendrye arrive from Michilimakinac, and deliver to the General a letter dated at that post, on the 23rd July, and addressed to him by Sieur de Noyelle, junr., commanding, in the absence of Mr. de La Corne, senior, and by other officers, who arrived from other upper posts, and happened to be then at Michilimakinac.

The General is informed by this letter of the confusion that prevails among all the nations of that post and neighbourhood, Outaouais, Sauteurs, and Mississagués. The Outaouais of Saguinam have killed three Frenchmen who were coming from Detroit to Michilimakinac. Two French canoes which had gone *en prime* from Montreal to the West Sea,\* have been attacked by the Sauteurs, about the place called La Cloche,† near Lake Michigan; one, containing eight men, has been wholly defeated; the second, by striking out into the Lake and throwing its cargo overboard, escaped to Michilimakinac. Another Frenchman has been stabbed by the Sauteurs at a place called La Grosse Isle,‡ only two leagues distant from the post. These Indians have offered divers insults and threats at the fort and in the vicinity; they killed all the horses and other cattle that they could not catch; they designed to surprise the fort, but were discovered and obliged to leave, by ringing the bell and beating the tap-too as usual, and even by making some defensive demonstrations. There had been greater reasons for presuming bad intentions on the part of the Indians, inasmuch as a crowd of young men had armed themselves with knives, in a council which had been held at their request, on the 3rd July, and which terminated in recrimination. The Indians have not been permitted to enter the fort, except under certain restrictions. Some Frenchmen from Point Chagouamigon, and Mr. de Noyelle, senr., on his usual return from the West Sea, arrived a few days after. Certain intelligence had also been received there from Detroit. This reinforcement will somewhat tranquilize the fort, which con-

\* La Mer de l'Ouest. In Carver's Map, the head of Lake Superior is called the West Bay.

† An Island north of the Great Manitoulin, in Lake Huron.

‡ An Island immediately north of Mackinaw Island; map of St. Mary's Straits, in Charlevoix, ed.



tained before their arrival only twenty-eight men. An Outaoua Indian named Neguiauamin arrived on the 2nd July at the post, to communicate in secret to the Commandant and the Missionary that the Iroquois, the Huron and the Flathead, had come to an understanding with the English to destroy the French and drive them to the other side of the Sea ; that the Outaouac of Detroit is in the plot ; that the Poutouatami will co-operate ; that the Mississague and Sauter are gained over ; that the Outaouac of Saguinam had already struck ; that the Outaouac of Michilimakinac would have taken part against us had it not been for the portion of the village which is at Montreal, and that they would yet possibly declare against us on the arrival of seventy men from Saguinam, who are to be reinforced by the Sauters of Grosse Isle ; that they were to leave in a few days, and to come in the night to speak to the Outaouas of the post, and that it were well to allow no person to go hunting, and to keep strict watch. Mr. de Noyelle, junr., adds that he will detain, until further orders, at Michilimakinac, the canoes which were to come from Montreal to the different posts, unless affairs changed and it became certain that the dispositions of the Indians at those posts were altered. We are co-operating in the adoption of the most effectual measures, either to restore tranquility at the post of Michilimakinac, or at least to place it in a proper state of defence against all attacks of the Indians.

(Page 129 of *N. Y. Hist. Col.*, Vol. 10.)

October 14th.—Sieur Masse, who has been the whole year at Cape Chat, has returned.

We received letters from Michilimakinac informing us of the arrival of Chevalier de La Verendrye, who has found that post very quiet ; the Outaouacs are beginning to be sorry for what occurred last year.

#### PARIS DOCUMENTS, X.

##### *Occurrences in Canada during the year 1747-8.*

EXTRACT of whatever occurred of interest at Quebec in regard to the operations of the war, and the various intelligence received there since the sailing of the ships in November, 1747.

(Page 137. News from Michilimakinac.)

Nov. 10.—We are in receipt of letters from Michilimakinac. Lieutenant de St. Pierre, who had been selected to command the convoy sent to that post, arrived there, without any accident, in 45 days. Captain de Verchères, appointed Commandant at the Bay,\* and who was to remain at Michilimakinac with his traders from Montreal, has taken his departure thence for his post, with his *voyageurs*. Mr. de St. Pierre writes us on October 22nd that he has not been able to speak to the Indians, who were, when he arrived, all gone to their winter quarters, without having given any token of their repentance for the outrage they had perpetrated. It is, hence, to be presumed that they persist in their evil dispositions ; that the Marquis de Beauharnois' order, sent with Sieur de La Verendrye, in the month of August, has been badly executed ; that 'twas the only means of reducing those nations ; that he does not anticipate success otherwise than by depriving them of the supplies they derive for the support of their families, and which they cannot dispense with. This might have been effected, were the traders prevented going to the different posts, according to the Marquis de Beauharnois' intentions ; and this officer takes this occasion of saying, that it would be well not to allow the canoes to leave Montreal next spring for Michilimakinac and other posts, until he have informed us of the sentiments in which the nations of that country will then be, and as soon as he shall have learned their intentions, he will take occasion to report them to us.

\* Green Bay.

## PARIS DOCUMENTS, X.

EXTRACTS from a letter from M. de Berthet, Commandant at the Illinois, to Sieur Lachine, trader at the Ouyatanons, dated Cahos, 20th October, 1747, whereof he sends us a copy.

(Page 154. *N. Y. Hist. Col.*, Vol. 10.)

Sieur de La Verendrye.

*March 29.*—Sieur de La Verendrye, junr., has returned to Montreal with the Cristinaux and other warriors of his party. In the neighbourhood of Corlac he fell in with a party of Mohawks and Dutchmen, who were coming to Sarastan, on a scouting party. He brought two Mohawk scalps, among which is that of the principal chief of that nation; one of a Dutchman; and a Dutch prisoner, who reports nothing of interest—only says that there is considerable talk about peace. This first blow on the Mohawks will not fail to frighten them.

(Page 167. *N. Y. Hist. Col.*, Vol. 10.)

Convoy to Michilimakinac.

*June 20.*—Count de la Galissoniere orders the dispatch from Montreal of the convoy for Michilimakinac, under the command of Lieutenant de St. Vincent. This convoy is well escorted and sufficiently well provided with provisions and merchandise to supply the post abundantly. The General writes to Lieutenant de St. Pierre, Commandant there, that the convoy was delayed in the hope of receiving news from Michilimakinac, but that the advanced season obliged him to order its dispatch, though he is uninformed of what is passing at that post; that should the troubles continue, nothing remains to be done than to abandon, as already proposed, those posts which are exposed to danger, in order to oblige the guilty to come to Michilimakinac, and even to Montreal, in search of what they want; that he must exact the surrender of the murderers, and, should circumstances force him, grant peace on the same conditions as those accorded to the Hurons of Detroit, who were to bring two English prisoners for every Frenchman they had killed; the promises must, first of all, be performed, in order that these nations may not betray us, as the Hurons have done. The General leaves this officer at liberty to determine, according to circumstances, the carrying into execution the different licenses granted for the northern posts, and observes to him, nevertheless, in regard to the West Sea and Nipigon, that in case these posts were abandoned, it would be to be feared that the English might irretrievably monopolise the entire of that trade which they now share with sufficient advantage. Demands some Panis, in order to indemnify the Indians who have surrendered some English prisoners.

Ensigns Laronde and Chevalier de La Verendrye have also taken their departure; the first for Point Chagouamigon, and the second for the West Sea.

## HUDSON BAY COMPANY'S CLAIM AFTER TREATY OF RYSWICK.

(FROM VOL. I., POWNALL'S MANUSCRIPTS, "TRADE," page 64.)

A Deduction of the Right and Title of the Crown of Great Britain and therein, of Our Most Gracious Sovereign Lady Queen Anne, to all the streights, bays, seas, rivers, lakes, creeks, islands, shores, lands, territories and places whatsoever within Hudson's Streights and Hudson's Bay, and of the right and property of the Hudson's Bay Company, derived from the Imperial Crown of Great Britain by letters patent of incorporation, and a free grant of all the premises from King Charles ye Second, Ao. 1670.



That Hudson's Bay (with all that belongs thereto, within Hudson's Straights, in North America), was first discovered by Sr. Sebastian Cabbat, Grand Pilot to King Henry the Seventh, who gave English names to several places of the said Bay.

Sr. Martin Furbisher, in Queen Elizabeth's time, made three voyages to the said Bay in 1576, 1577 and 1578, and gave English names to several places there.

Captain Davis made three voyages thither in the year 1585, 1587 and 1588, and gave English names to several parts of the said Bay.

Henry Hudson, an Englishman, sailed to the Straights and Bay, from him called Hudson's Straights and Hudson's Bay, and keeps that denomination to this day in all the authentic maps in ye world, and even in the maps of the best geographery of France. The said Hudson stayed a whole winter there, took possession thereof in the name of the King of England, traded with the salvages, and gave names to several other parts of the Straights and Bay.

Sir Thomas Button pursued the discovery and possessions of the aforesaid Hudson, sailed into the Straights and Bay with two ships, and particularly into Fort Nelson, where he wintered, and buried the commander of his ship there, in memory of whom he gave it the name of Port Nelson, and called that particular bay Button's Bay (as it is still called in the maps), took possession thereof in the name of his master, King James the First, and gave several other English names to other places in the Bay, and erected a cross there, declaring thereon the right of the Crown of England.

Captain Luke Fox, by command of King Charles the First, made a voyage to Hudson's Bay, and amongst other places entered Port Nelson, and finding there the cross erected by Sir William Button, with the inscription defaced, and almost worn-out, he erected it again with a new inscription, declaring the right and possession of his then Majesty King Charles the First, named the adjacent country New North Wales, and published a journal of his voyage. *Note.*—That the troubles and civil wars which soon after broke out in England, might be one principal cause why those voyages were not prosecuted, trade in general then failing, and navigation and discoveries wanting the encouragement of the Government—till after the Restoration of King Charles the Second. Yet it is observable that all that while (for so many years) that those places and countries lay neglected and unfrequented of the navigation or commerce of any European nation, the French do not in the least pretend to have then visited those parts, or to have formed a possession, or attempted any commerce with any people upon those coasts, nor do they pretend that ever any French vessel sailed Hudson's Straights or Hudson's Bay till of late years.

It was, then, after the happy Restoration of King Charles the Second, that trade and commerce began to revive, and in particular that from noblemen and other public-spirited Englishmen, not unmindful of the discovery and right of the Crown of England to those parts in America, designed at their own charge to adventure the establishing of a regular and constant trade to Hudson's Bay, and to settle forts and factories, whereby to invite the Indian nations (who lived like savages, many hundred leagues up in the country), down to their factories, for a constant and yearly intercourse of trade, which was never attempted by such settlements, and to reside in that inhospitable country, before the aforesaid English Adventurers undertook the same.

Wherefore, after a long time of consultation, and the necessary preparations for so great a charge, in the year 1667, one Zachary Gilham was provided of a ship and goods in London, sailed through Hudson's Bay to the bottom of the Bay, settled a trade, and built a fort there, which he called Charles Fort, on a river which he named Rupert's River, in honour to Prince Rupert, who was pleased to be concerned with, and was one of those Adventurers; in which place the Hudson's Bay Company continued a trade, and had there a factory, until the same was unjustly taken from them by the French, in time of peace.

Another voyage was undertaken by the same Adventurers, and one Captain Newland was sent, who entered Port Nelson, settled there, and anew declared right and title of His Majesty to that river and the countrys adjacent, and there fixed up His Majesty's Arms, as a mark of his sovereignty over the said places.

After the charge of those voyages, and the experience by these settlements, that a great trade might be brought to England by beavers, furs and other commodities, for the just encouragement of so good and public a benefit, and the persons that had laboured in it, his then Majesty King Charles the Second was graciously pleased, in the year 1670, according to the undoubted and inherent right of His Imperial Crown of England, by his Royal letters patent

to incorporate the said Adventurers, and to grant unto His Highness Prince Rupert, the Duke of Albemarle, Earl of Craven, Lord Arlington, Lord Ashley, and divers others and their successors for ever, all the lands and territories aforesaid, to be reckoned and reputed as one of His Majesty's plantations and colonies in America, by the name of Rupert's Land, and further, to create and constitute them and their successors the true and absolute lords and proprietors of the same, and of all the territories, limits and places thereto belonging, to have, hold, possess and enjoy the same for ever, as of His Majesty's manor of East Greenwich, in free and common soccage, &c.

In the same year the Company so incorporated sent out one Charles Baily as Governor of their factories and settlements in the Bay, with whom Monsieur Frontenac, then Governor of Canada, by letters and otherwise, entertained a good correspondence, not in the least complaining in several years of any pretended injury done to the French, by the said Companies settling a trade and building of Forts at the bottom of the Bay.

The said Charles Baily (as the Company's Governor) sent a ship from the bottom of the Bay, called the *Impley*, to Port Nelson, to settle a trade there with the natives.

As did also Captain Draper, with the ship *Albemarle*.

But after about 15 years' labour and charge, continual voyages, Factorys and Settlements, and the trade with the natives established; the French began to annoy this new and growing Trade, and thought it worth their while to study some pretences to invade and rob the English, and to deprive them of some part of the said country.

When the English Company were building a Fort and settling a Trade at Fort Nelson, the French, having formed a private expedition at Quebec, in Canada, by confederacy of one La Chanay, and other private persons, came suddenly with two ships into the said river of Port Nelson, and with a stronger force surprised the said Company's men, and dispossessed them of their place and settlement, carried them prisoners to Canada, and pretended to settle a trade there themselves; but this was the first time that ever the French did sail a vessel into the Hudson's Bay since the beginning of the world. This was a piratical expedition, and the authors of it were prosecuted as such, by frequent memorials from hence at the Court of France, where the same was disowned by His Most Christian Majesty, and satisfaction promised by him accordingly.

But as the French seldom want assurance for their pretensions or claim to anything for their advantage; so they never fail of artifice or force (when they can) to back such their pretences; and when by violence, rapine and murder, they got themselves into an unjust possession, as aforesaid, then they pretended to expostulate all by treaty, (as if they were upon an even foot with the right possessor,) and they seconded this injurious invasion and assault, a year or two after, and by taking a ship of the Company's, one Edward Humes, Commander, with the goods, and carried the men away prisoners, and for above a year fed them on bread and water.

They formed a greater design, and went with a considerable force<sup>2</sup> overland, from Canada to the bottom of the Bay, and by force or treachery, surprised and took all the Company's factorys, therewith all the ammunition, goods, stores, and merchandize therein, to a very great value, murdered and destroyed many of His Majesty's subjects; and all these invasions, seizures and depredations were in a time of peace, and the best correspondence between the two Crowns; which is an action scarce to be paralleled by any civilized nation, when the way is open for complaints to the Prince on either side.

Upon these repeated injuries, the said Company complained several times to His then Majesty King James the Second. Several memorials were presented at the French Court by the public Ministers then there, My Lord Preston, Sir Wm. Trumbal, and Mr. Skelton: at last His Most Christian Majesty did appoint Commissioners to meet at London, to treat of those matters, and Monsieur Bonrepos was sent over thither, to be joined with Monsieur Bascillon, the French Ambassador in that affair, whereas many papers were exchanged on both sides (but were in that reign so advantageous to the French interest,) they did not obtain one inch from the right of the Imperial Crown of Great Britain, nor from the property of the Hudson Bay Company. But on the contrary His then Majesty did declare that his honour and the Company's interest were concerned therein, and would have reparation for both.

At His late Majesty, King William the Third, his happy accession to the throne, the said Company put in a fresh petition and memorial to His Majesty, of their grievous suffer-



ing from the French, which His Majesty was greatly pleased to resent so far, that he made it one of the articles and grounds of a declaration of war against France.

And then by the late Treaty of Ryswick, Commissioners were appointed on both sides to examine and determine the rights and pretensions which either King had to the place, situated in Hudson's Bay; before which Commissioners the right and title of the Crown of England to the whole Streights and Bay of Hudson was then clearly made out, which the French could never disprove; yet they still most unjustly keep possession of the greatest part thereof, which if they be permitted to enjoy, they will become sole masters of all Her Majesty's dominions and territory in those parts, which are of great extent, and the undoubted right of the Crown of Great Britain, and of very great concern to all Her Majesty's subjects, especially to those that inhabit or trade to the northern parts of Her Majesty's plantations in America.

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REPORT of the English Commissioners appointed to treat with the French, concerning damages sustained by the Hudson's Bay Company, &c., 1687. Together with His Majesty's resolutions thereupon.

*The English Commissioners' Report made in the Year 1687.*

We your Majesty's Commissioners appointed to treat with the Ambassador and Envoy Extraordinary of His Most Christian Majesty concerning the differences that have happened, or may, to your Majesty or the French in America, have had frequent conferences with the said Ambassador and Envoy Extraordinary, in order to obtain satisfaction for the damages your Majesty's subjects have lately sustained from the French in Hudson's Bay, with restitution of the three forts which by surprise were seized on by them; as also touching several other differences depending between the two Crowns; and as to the business of Hudson's Bay, having already acquainted your Majesty with our proceedings therein. We do further add, as our humble opinion, that it plainly appears your Majesty and your subjects have a right to the whole Bay and Streights of Hudson, and to the sole trade thereof, so it may be fit for your Majesty to support the said Company of Hudson's Bay in the recovery and maintenance of their right, since otherwise that trade will be totally lost, and fall into the hands of the French, if they be permitted to continue in the possession of those forts, or of any fort or place within the said Bay or Streights.

*His Majesty's Resolution Thereupon.*

Whereupon His Majesty did declare, that having maturely considered his own right and the right of his subjects to the whole Bay and Streights of Hudson, and having been also informed of the reasons alleged on the part of the French, to justify their late proceeding in seizing three forts, which for many years past have been possessed by the English, and in committing several acts of hostility, to the very great damage of the English Company of Hudson's Bay.

His Majesty upon the whole matter did conceive the said Company well founded in their demands, and therefore did insist upon his own right and the right of his subjects to the whole Bay and Streights of Hudson, and to the sole trade thereof, as also upon the demand of full satisfaction for the damages they have received, and restitution of the three forts surprised by the French, in the bottom of the Bay.

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HUDSON'S BAY COMPANY'S PROPOSALS, 1700.

January 10th.—Representation from the Board relating to Forts, &c., on the continent of America. *Vide* New York D. fo. 9.

*January 22nd.*—Proposals of the Governor and Company of Hudson's Bay about their boundaries, with the French. Journal E. fo. 326. N. fo. 87.

The limits which the Hudson's Bay Company conceive to be necessary as boundaries between the French and them in case of an exchange of places, and that the Company cannot obtain the whole Streights and Bay, which of right belongs to them, viz. :

1. That the French be limited not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond the bounds of 53 degrees, or Albany River, vulgarly called Chechewan, to the northward, on the west or main coast.

2. That the French be likewise limited not to trade by wood-runners, or otherwise, nor build any House, Factory or Fort, beyond Rupert's River, to the northward, on the east main or coast

3. On the contrary, the English shall be obliged not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond the aforesaid latitude of 53 degrees, or Albany river, vulgarly called Chechewan, south-east towards Canada, on any land which belongs to the Hudson's Bay Company.

4. As also the English be likewise obliged not to trade by wood-runners, or otherwise, nor build any House, Factory, or Fort, beyond Rupert's river, to the south-east, towards Canada, on any land which belongs to the Hudson's Bay Company.

5. As likewise, that neither the French or English shall at any time hereafter extend their bounds contrary to the aforesaid limitations, nor instigate the natives to make war, or join with either, in any acts of hostility to the disturbance or detriment of the trade of either nation, which the French may very reasonably comply with, for that they by such limitations will have all the country south-eastward betwixt Albany Fort and Canada to themselves, which is not only the best and most fertile part but also a much larger tract of land than can be supposed to be to the northward, and the Company deprived of that which was always their undoubted right.

And unless the Company can be secured according to these propositions they think it will be impossible for them to continue long at York Fort, (should they exchange with the French) nor will the trade answer their charge; and therefore if your Lordships cannot obtain these so reasonable propositions from the French, but that they insist to have the limits settled between Albany and York, and Albany Fort, as in the latitude of 55 degrees or thereabouts, the Company can by no means agree thereto, for they by such an agreement will be the instruments of their own ruin never to be retrieved.

By order of the Government Court,  
(Signed)

WM. POTTER,  
*Secretary.*

Confirmed by the Court }  
of the said Company,  
10th July, 1700.

*January 23rd.*—Letter to the Governor, &c., of Hudson's Bay, relating to settlement of the boundaries with the French.

*To the Governor and Deputy-Governor of the Hudson Bay Company or either of them.* Journal E. 327. Ans. fo. 97.

GENTLEMEN :—Upon consideration of what was this day offered to the Lords Commissioners for Trade and Plantations, by yourselves and other members of the Hudson's Bay Company, their Lordships have commanded me to acquaint you with their desire, that the Resolution of your Court may be taken and communicated to them, whether (in case the French cannot be prevailed with to consent to the settlement of the boundaries proposed by your Court of the 10th of July last), the said Court will not think fit to consent, that the limits on the east side of the Bay be extended to the latitude of 52½ degrees, with whatever further that Court may think advisable to propose, in reference to their own affairs, for the more easy settlement of all disputes between the Company and the French in Hudson's Bay.

W. P.

Whitehall, *January 22nd, 1700.*



*February 12th.*—Proposals from the Governor and Company of Hudson's Bay for settling the limits with France.

To the Right Honourable the Lords Commissioners for Trade and Plantations. Journal F. 354.

The Hudson's Bay Company having lately exhibited to your Lordships their Resolution of their Court, the 10th of July last, concerning limits between them and the French in Hudson's Bay, and though the Company cannot but still insist upon their undoubted right to the whole Bay and Streights of Hudson, as has been clearly made out by them. Fo. 73. Fo. 81.

Yet in obedience to your Lordships' letter of the 22nd inst., and to show how desirous they are to comply therewith as much as in them lies, and is consistent with their future safety, they do further offer to your lordships the following proposals of limits between them and the French in Hudson's Bay, viz.:

1. That the French be limited not to trade by wood-runners or otherwise, nor build any House, Factory, or Fort to the northward of Albany river, vulgarly called Checheawan, on the west main or coast.

2. That the French be likewise limited not to trade by wood-runners or otherwise, nor build any House, Factory, or Fort to the northward of Hudson's river, vulgarly called Canute river, on the east main or coast.

3. On the contrary, the English, upon such an agreement, do engage not to trade by wood-runners, nor build any House, Factory, or Fort to the southward of Albany river, vulgarly called Checheawan, on the west coast, on any ground belonging to the Hudson's Bay Company.

4. As also, the English be likewise limited not to trade by wood-runners or otherwise, nor build any House, Factory, or Fort to the southward of Hudson's river, vulgarly called Canute river, on the east coast, on any ground belonging to the Hudson's Bay Company.

5. That all the islands in the said Bay and Streights of Hudson, lying to the northward of Albany river, on the west coast, and of Hudson's river, vulgarly called Canute River, on the east coast, shall be and remain to the English.

6. Likewise that all the islands in the said Bay of Hudson, lying to the southward of Albany river, on the west coast, and of Hudson's river, vulgarly called Canute river, on the east coast, shall be and remain to the French.

7. That neither the French or English shall at any time hereafter extend their bounds contrary to the aforesaid limitations, or instigate the natives to make war, or join with either in any acts of hostility, to the disturbance or detriment of the trade of either nation.

These terms the Company are willing to agree to, upon condition they may be secured from any claim that has been or may be made on them, by virtue of the 8th Article of the Treaty of Ryswick, or by any other matter or thing relating to the said Treaty. And if the French think fit to accept thereof, the Company are willing to exchange places with them, but not without settling of limits; for that the said 8th Article which saith there shall be an exchange of places, doth also say, that limits shall be likewise settled, and it would seem very unreasonable that one should be performed without the other. As to the Company's naming of rivers as boundaries, and not latitudes, the same is more certain and obvious, both to the natives as well as Europeans, and the contrary impracticable; nor can the latitude be so well laid down in that wild country, the Indians well knowing the one, but not the other.

But should the French refuse the limits now proposed by the Company, the Company think themselves not bound by this or any former concessions of the like nature, but must, as they have always done, insist upon their prior and undoubted right to the whole Bay and Streights of Hudson, which the French never yet would strictly dispute, or suffer to be examined into (as knowing the weakness of their claim), though the first step in the said Article of Ryswick directs the doing of it.

By Order of the General Court of the said Company.

(Signed)

WM. POTTER,  
Secretary.

*January 29th, 1700.*

*To the Deputy Governor of the Hudson's Bay Company.*

The Lords Commissioners for Trade and Plantations have commanded me to signify to you their desire that the Hudson's Bay Company would lay before them whatever they may think fit to offer in relation to the trade and security of that place at this time.

I am,

Sir,

Your humble servant,  
W. P.

Whitehall, *January 9th*, 170 $\frac{1}{2}$ .

[MEMORANDUM from the Hudson's Bay Company, representing the state of their affairs at present, and what they desire.]

*To the Honourable the Lords Commissioners for Trade and Plantations.*

The humble representation of the Governor and Company of Adventurers of England trading into Hudson's Bay.

SHEWETH :

That the said Company, being required by your Lordships to give in what they thought necessary in relation to their trade, and the security of their factory in Hudson's Bay, do, with all submission, lay before your Lordships the true state and condition thereof.

They will not trouble your Lordships with a repetition of their undoubted rights to all Hudson's Bay, and that the French never laid claim to the same, or ever sailed a ship or vessel into those parts since the creation of the world, till the year 1682 (many years after the incorporation of this Company), and then in a piratical manner, without any commission or authority from His Most Christian Majesty, who was afterwards pleased to disown the said proceeding, as the Company have and are still ready to prove.

These matters have been so fully and clearly made out by them that even the French themselves, with all their sophistry and equivocation, have not been able to disprove.

Therefore we shall proceed to inform your Lordships of the present melancholy prospect of their trade and settlement in Hudson's Bay, and that none of His Majesty's plantations are left in such a deplorable state as those of this Company, for by their great losses by the French, both in times of peace as well as during the late war, together with the hardships they lie under by the late Treaty of Ryswick, they may be said to be the only mourners by the peace.

They cannot but inform your Lordships that the only settlement the Company have now left in Hudson's Bay (of seven they formerly possessed) is Albany Fort, vulgarly called Checheawan, in the bottom of the said Bay, where they are surrounded by the French on every side, viz., by their settlements on the lakes and rivers from Canada to the northwards, towards Hudson's Bay, as also from Port Nelson (Old York Fort) to the southward; but besides this, the Company have, by the return of their ship this year, received certain intelligence that the French have made another settlement at a place called New Severn, 'twixt Port Nelson and Albany Fort, whereby they have hindered the Indians from coming to trade at the Company's factory, at the bottom of the Bay, so that the Company this year have not received above one-fifth part of the returns they usually had from thence, insomuch that the same doth not answer the expense of their expedition.

The Company being by these and other their misfortunes reduced to such a low and miserable condition, that, without His Majesty's favour and assistance, they are in no ways able to keep that little remainder they are yet possessed of in Hudson's Bay, but may justly fear in a short time to be deprived of all their trade in those parts, which is solely negotiated by the manufacturers of this kingdom.

Upon the whole matter, the Company humbly conceive they can be no ways safe from the insults and encroachments of the French, so long as they are suffered to remain possessed of any place in Hudson's Bay, and that in order to dislodge them from thence (which the Company are no ways able to do), a force of three men-of-war, one bomb vessel, and two hun-



dred and fifty soldiers, besides the ship's company, will be necessary, whereby that vast tract of land which is of so great concern, not only to this Company in particular, but likewise to the whole nation in general, may not be utterly lost to this kingdom.

All which is humbly submitted to your lordships' great wisdom and judgment.

By the Governor and Company of Adventurers of England trading into Hudson's Bay.

W. POTTER,  
*Secretary.*

Hudson's Bay House, *the 19th January, 170 $\frac{1}{2}$ .*

MEMORANDUM from the Hudson's Bay Company, containing what they desire may be stipulated for them at the ensuing Treaty of Peace, 1712.

*To the Right Honourable the Lords Commissioners of Trade and Plantations.*

The Memorandum of the Governor and Company of Adventurers of England trading into Hudson's Bay.

That for avoiding all disputes and differences that may in time to come arise between the said Company and French, settled in Canada, they humbly represent and conceive it necessary :

That no wood-runners, either French or Indians, or any other person whatsoever, be permitted to travel, or seek for trade beyond the limits hereafter mentioned.

That the said limits begin from the island called Grimington's Island, or Cape Perdrix, in the latitude of  $58\frac{1}{2}$  north, which they desire may be the boundary between the English and French, on the coast of Labrador, towards Rupert's Land, on the east main, and Nova Britannia on the French side, and that no French ship, barque, boat or vessel whatsoever, shall pass to the northward at Cape Perdrix, or Grimington's Island, towards or into the Streights or Bay of Hudson, on any pretence whatever.

That a line be supposed to pass to the south-westward of the said Island of Grimington, or Cape Perdrix, to the great Lake Miskosinke at Mistoveny, dividing the same into two parts, (as in the map now delivered), and that the French nor any others employed by them, shall come to the north or north-westward of the said lake, or supposed line, by land or water, on or through any rivers, lakes, or countries, to trade, or erect any forts or settlements whatsoever ; and the English, on the contrary, not to pass the said supposed line either to the southward or eastward.

That the French be likewise obliged to quit, surrender, and deliver up to the English, upon demand, York Fort (by them called Bourbon), undemolished ; together with all forts, factories, settlements, and buildings whatsoever, taken from the English, or since erected, or built by the French, with all the artillery and ammunition, in the condition they are now in ; together with all other places they are possessed of within the limits aforesaid, or within the Bay and Streights of Hudson.

These limits being first settled and adjusted, the Company are willing to refer their losses and damages formerly sustained by the French in times of peace, to the consideration of Commissioners to be appointed for that purpose.

By order of the Governor and Company of Adventurers of England, trading into Hudson's Bay.

Hudson's Bay House, *7th February, 17 $\frac{1}{2}$ .*

NOTE.—The said Company are by their Charter constituted Lords Proprietors of all those lands, territories, seas, streights, bays, rivers, lakes and soundings, within the entrance of the Streights, to hold the same, as of Her Majesty's manor of East Greenwich, in the County of Kent.

*To the Right Honourable the Earl of Dartmouth.*

MY LORD,—In obedience to Her Majesty's commands, signified to us, we have considered the enclosed petition from the Hudson's Bay Company to Her Majesty, and are humbly of opinion, that the said Company have a good right and just title to the whole Bay and Streights of Hudson.

Since the receipt of which petition, the said Company have delivered us a memorial, relating to the settlement of boundaries between them and the French of Canada, a copy whereof is enclosed, and upon which we take leave to offer, that as it will be for the advantage of the said Company, that their boundaries be settled, it will also be necessary that the boundaries between Her Majesty's colonies on the continent of America and the said French of Canada be likewise agreed and settled: wherefore we humbly offer these matters may be recommended to Her Majesty's Plenipotentiaries at Utrecht.

We are,

My Lord,

Your Lordship's most obedient, and most humble servants.

WINCHELSEA,  
PH. MEADOWS.  
CHAS. TURNER.  
GEO. BAILLIE.  
ARTH. MOORE.  
FRA. GWYN.

Whitehall, *February 19th, 1711*<sub>12</sub>

Right Honourable Earl of Dartmouth.

*December 21st, 1711.*

PETITION from the Governor and Company of Adventurers of England trading into Hudson's Bay, to Her Majesty, praying that at a Treaty of Peace, the French may be obliged to renounce all right to the said Bay, &c.

*To the Queen's Most Excellent Majesty.*

The Petition of the Governor and Company of Adventurers of England trading into Hudson's Bay,

HUMBLY SHEWETH :

That your petitioners are far from enquiring into the great affairs of your Majesty's glorious Government, especially as what relates to war and peace, both which they know your high wisdom will so order as shall be most for the good of your whole people; but believing the justice of your cause and the terror of your arms must soon reduce the French King to sue for such a peace as all Europe desires and wants, your petitioners crave leave with the profoundest duty, to submit the hardships of their case to your Royal consideration.

That the French, in a time of perfect amity between the two kingdoms, viz., Anno 1682, did arbitrarily invade the Company's territories at Port Nelson, burn their houses and seize their effects,

That in the years 1684 and 1685, they continued their depredations.

That in the year 1686, they forcibly took from the Company three Factories, viz: Albany Fort, Rupert and Moose River Fort, which violent proceeding they continued the years 1687 and 1688, the whole damages done by the French to the Company in times of peace amounting to £108,514 19s. 8d., as your petitioners are ready to make appear, besides interest for the same.



That in the year 1685, they supplicated his then Majesty King James the Second to interpose on their behalf, and by his Ambassadors at the French Court to demand reparation for the damages done to the Company, and restitution of the places unjustly taken from them by the French in times of peace: whereupon Commissioners were appointed by His Majesty, viz., the Earl of Sunderland, the Earl of Middleton, and the Lord Godolphin to treat with the French Commissions, before whom the Company clearly made out their right to the whole Bay and Streights of Hudson,—to the satisfaction of English Commissioners, who, on the 10th November, 1687, reported the right of your petitioners, upon which King James was pleased to declare, that he conceived the Company well founded in their demands, and therefore did insist upon his own right, and the right of his subjects to the whole Bay and Streights of Hudson, and to the sole trade thereof; as also upon the demand of full satisfaction for the damages they had received, &c., the copy of which report and His Majesty's resolutions thereon, is hereunto annexed. This was translated and declared towards the latter end of 1687, at which time the Lord Churchill, Duke of Marlborough, was Governor of the Company, and memorials were repeated by the said King's Command at the French Court so pressing for satisfaction and restitution, that your petitioners had certainly been relieved and restored to their rights, but for the war which soon after broke out between the two Kingdoms.

That upon the late King William's accession to the Throne, the Company renewed their claim to their territories and for reparation of damages sufficient from the French in times of full peace, of which His said Majesty was so sensible, that he was pleased to make the proceedings of France in that affair one of the causes and articles of his declaration of war against the French King in hæc verba: "But that the French King should invade our Charibbee Islands and possess himself of our territories of the Province of New York and Hudson's Bay in an hostile manner, seizing our Forts, burning our subjects' houses, and enriching his people with the spoil of their goods and merchandizes, detaining some of our subjects under the hardships of imprisonment, causing others to be inhumanly killed, and driving the rest to sea in a small vessel, without food and necessaries to support them, are actions not even becoming an enemy, and yet he was so far from declaring himself so, that at that very time he was negotiating here in England by his Ministers, a treaty of neutrality and good correspondence in America," so that your petitioners did patiently wait the end of that war, not doubting but to have justice to them, when a peace was concluded.

But so it is, may it please your most Excellent Majesty, that the Company found their interest not comprehended in the Treaty of Ryswick, which they are far from attributing to any want of care in that gracious Prince of this Kingdom's honour and trade, and rather think their rights and claims were then overweighed by matters of higher consequence depending in that juncture; for by the said treaty they found their condition much worse than it was before. By the 8th article whereof, the French were left in possession of such places situated in Hudson's Bay, as had been taken by them during the peace which had preceded that war.

That at a meeting of Commissioners on both sides (as directed by the said treaty, to adjust these differences) the Company did again set forth the undoubted right of the Crown of England to the whole Bay and Streights of Hudson, against which nothing but sophistry and cavils were offered on the French side, and the matter remained undetermined.

That the only settlement now remaining to the Company in those parts (of seven they formerly had) is Albany Fort, on the Chechewan, where they are surrounded by the French on every side, viz.: By their settlements on the lakes and rivers from Canada to the northward towards Hudson's Bay, as also from Port Nelson (at York Fort) to the southward; the French have likewise made another settlement between Port Nelson and Albany Fort, whereby the Indians are hindered from coming to trade with the English factory, at the bottom of the Bay, and if they are suffered to fix and fortify in those parts, beyond all question they will deprive your Majesty's subjects of that tract of land, which is so large a part of your American dominions, and rightly belongs to the Crown of Great Britain.

That not only your Majesty's glory is concerned to preserve those plantations, but it very much imports the general trade of your Kingdom, since your petitioners, notwithstanding the losses and discouragements they have laboured under, and during the war, have brought from thence between 30,000 and 40,000 skins per annum, and doubt not if they

were reinstated in their possessions, according to their charter, to bring the said importations to 100,000 skins per annum.

That the said country doth abound with several other commodities (of which your petitioners have not been able to begin a trade, by reason of the interruptions they have met with from the French) as with whale-oil, whale-bone, (of which last your subjects now purchase from Holland and Germany, to the value of about £26,000 per annum, which may be had in your own dominions,) besides many other valuable commodities, which in time may be discovered.

That if the French come once to be entirely possessed of Hudson's Bay, they will undoubtedly set up whale fishing in those parts, which will greatly tend to the increase of their navigation, and to their breed of seamen.

That there is carried thither, and consumed there, nothing but of the product and manufacture of England, your petitioners encouraging and daily bringing the Indians to wear coarse cloth instead of skins, which in process of time will considerably advance the woollen trade at home.

That it needs must reflect upon the honour of Britain to relinquish to the French that territory, of which their violent usurpation in a time of peace was alleged as a main article in the first declaration of war against that Kingdom.

That if the French could pretend to any right to the said territories by the peace of Ryswick, this right must needs be determined by their notorious infraction of the said treaty.

The premises considered, when your Majesty, in your high wisdom, shall think fit to give peace to those enemies whom your victorious arms have so reduced and humbled, and when your Majesty shall judge it for your people's good to enter into a treaty of peace with the French King, your petitioners pray that the said Prince be obliged, by such treaty, to renounce all right and pretensions to the Bay and Streights of Hudson, to quit and surrender all posts and settlements erected by the French, or which are now in their possession, as likewise not to sail any ships or vessels within the limits of the Company's charter, and to make restitution of the £108,514 19s. 8d., of which they robbed and despoiled your petitioners in times of perfect amity between the two Kingdoms.

And your petitioners, as in duty bound, shall ever pray.

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LETTER from the Earl of Dartmouth, 27th May, 1713, referring to the Board of Petition of Hudson's Bay Company, about taking possession of the places and territories belonging to the said Company, which were late in the power of the French.

*To the Right Honourable the Lords Commissioners of Trade and Plantations.*

MY LORDS AND GENTLEMEN,—The Queen has commanded me to transmit to you the enclosed Petition of the Hudson's Bay Company, that you may consider of it and report your opinion, what orders may properly be given upon the several particulars mentioned. In the meantime I am to acquaint you that the places and countries therein named, belonging of right to British subjects, Her Majesty did not think fit to receive any Act of Cession from the French King, and has therefore insisted only upon an order from that Court for delivering possession to such persons as should be authorized by Her Majesty to take it; by this means the title of the Company is acknowledged, and they will come into the immediate enjoyment of their property without further trouble.

I am,

My Lords and Gentlemen,

Your most humble servant,

DARTMOUTH.

Whitehall, May 27th, 1713.



June 1st, 1713.

*To the Queen's Most Excellent Majesty.*

The humble petition of the Governor and Company of Adventurers of England trading in the Hudson's Bay,

SHEWETH :

That your petitioners, being informed that the Act of Cession is come over, whereby (among other matters thereby concerted), the French King obliges himself to restore to your Majesty (or to whom your Majesty shall appoint to take possession thereof) the Bay and Streights of Hudson, together with all the lands, seas, sea-coasts, rivers and places situate in the said Bay and Streights, as also all forts and edifices whatsoever, entire and not demolished, together with guns, shot, powder and other warlike provisions (as mentioned in the 10th Article of the present treaty of peace) within six months after the ratification thereof, or sooner, if possible it may be done.

Your petitioners do most humbly pray your Majesty will be graciously pleased to direct the said Act of Cession may be transmitted to your petitioners, as also your Majesty's commission to Captain James Knight and Mr. Henry Kelsey, gentleman, to authorise them, or either of them, to take possession of the premises above mentioned, and to constitute Captain James Knight to be Governor of the fortress called Port Nelson, and all other forts and edifices, lands, seas, rivers and places aforesaid ; and the better to enable your petitioners to recover the same, they humbly pray your Majesty to give orders that they may have a small man-of-war to depart with their ships, by the 12th day of June next ensuing, which ship may in all probability return in the month of October.

And your petitioners as in duty bound shall ever pray.

By Order of the Company.

per WM. POTTER,  
*Secretary.*

LETTER from the Lord Viscount Bolingbroke, of 13th April, 1714, referring to the Board a memorandum of the Hudson's Bay Company ; a petition on behalf of the inhabitants of Mountserratt, and an extract of a letter from Mr. Fleetwood, Consul at Naples.

*To the Right Honourable the Lords Commissioners of Trade and Plantations.*

MY LORDS,—I send your lordships enclosed, by the Queen's command, a memorandum of the Governor and Company of Hudson's Bay, and a petition of several persons on behalf of themselves and the inhabitants of Mountserratt. It is Her Majesty's pleasure that your lordships should consider the said memorandum and petition, as likewise the several matters which are referred to commissaries by the tenth, eleventh, and fifteenth Articles of the late Treaty of Peace with the Most Christian King, and upon the whole make your representation, to be laid before Her Majesty, for her further pleasure therein.

By the enclosed extract of a letter from Mr. Fleetwood, Her Majesty's Consul at Naples, your lordships will see that he desires to have leave to come to England ; but the Queen has thought fit, before she grants his request, to direct your lordships to inquire whether his coming away will be of prejudice to trade in those parts.

I am,

My Lords,

Your most humble servant,

BOLINGBROKE.

Whitehall, April 13th, 1714.

*April 14th.*

MEMORIAL from the Hudson's Bay Company.

*To the Queen's Most Excellent Majesty.*

The humble memorial of the Governor and Company of Adventurers of England trading into Hudson's Bay.

That the said Company do with the utmost gratitude return your Majesty their most humble and hearty thanks for the great care your Majesty has taken for them by the Treaty of Utrecht, whereby the French are obliged to restore the whole Bay of Hudson and the Straights, being the undoubted right of the Crown of Great Britain.

And whereas by the 11th Article of the said Treaty, satisfaction is to be made to the said Company for all damages sustained from the French in times of peace, for which commissaries are to be named on both sides to adjust the same.

The said Company humbly presume to acquaint your Majesty that whenever your Majesty in your great wisdom shall think fit to name commissaries for that purpose, they are ready to make out their demand of damages sustained from the French, according to the said 11th Article.

All which they nevertheless submit to your Majesty's wisdom and goodness.

The Hudson's Bay Company,

WM. POTTER,  
*Secretary.*

*To Wm. Popple, Esq.*

SIR,—I, being one of the Commissioners for the Hudson's Bay Company, give me leave to take this opportunity to inform you we are sending a gentleman to take possession of our country very speedily. If the Lords have any commands touching the memorial lately presented to Her Majesty by us, relating to the damages the French did us in times of peace, this gentleman, who was in Hudson's Bay at that time, can give their Lordships some information in that matter.

I am,  
Your very humble servant,  
JNO. PERY.

*June 3rd, 1714.*

*To the Right Honourable the Lord Viscount Bolingbroke.*

MY LORD,—In obedience to Her Majesty's commands, signified to us by your Lordship's letter of the 13th of the last month, we have considered the Memorial of the Governor and Company of Hudson's Bay, and the Petition relating to Mountserratt, and thereupon take leave to offer, that Her Majesty be pleased to signify to the Court of France the necessity of appointing commissaries to treat the several matters pursuant to the 10th, 11th, and 15th Articles of the Treaty of Peace with France, we being informed that the French commissaries who are here, have not full powers to treat on those matters; and as soon as we have their answer, we shall lay it before your lordship.

My Lord,

Your Lordship's most obedient and most humble servants,

GUILFORD.  
R. MONCKTON.  
ARTHUR MOORE  
JNO. COTTON.  
JNO. SHARPE.  
SAMUEL PYTTS.  
THOS. VERNON.

*June 18th.*



MEMORANDUM from the Hudson's Bay Company describing limits which they desire may be fixed between them and the places appertaining to the French, &c.

*To the Right Honourable the Lords Commissioners of Trade and Plantations.*

The humble representation of the Governor and Company of Adventurers of England trading into Hudson's Bay,

SHEWETH :

That pursuant to the 10th article of the Treaty of Utrecht, they did, the beginning of June last, send a ship for Hudson's Bay, and therein a Governor, one Captain Knight, and his Deputy, one Mr. Kelsey, to take possession of the whole Bay and Streights of Hudson, together with all other places relating thereto, as mentioned in the said articles, they having not only her late Majesty, (of blessed memory) her commission for the same purpose, together with one from the Company, but likewise the most Christian King's order, under his hand and seal, with a power from the Canada Company, to deliver up the same according to the said treaty, which ship, at the request of the said Canada Company, is not only to bring away the French settled in Hudson's Bay, but likewise their effects, pursuant to the aforesaid treaty, they paying freight for the same, which ship may be expected the latter end of September, or beginning of October next.

They further represent to your Lordships, that, according to a memorial formerly delivered this honourable board, relating to the limits or boundaries to be settled by commissaries 'twixt the English and French in those parts, they humbly prayed, that for avoiding all disputes and differences that may in time arise between the Company and the French settled in Canada, that no wood-runners, either French or Indians, or any other person whatsoever, be permitted to travel, or seek for trade beyond the limits thereafter mentioned.

That the said limits begin from the Island called Grimington Island, or Cape Perdrix, in the latitude of  $58\frac{1}{2}$  north, may be the boundary between the English and the French, on the coast of Labrador towards Rupert's Land on the coast main, and Nova Britannia on the French side.

That no French ship, barque, boat, or vessel whatsoever, shall pass to the north-westward of Cape Perdrix, or Grimington's Island, towards or into the Streights or Bay of Hudson, on any pretence whatsoever.

That a line supposed to pass to the south-westward from the said Island of Grimington, or Cape Perdrix, to the great lake Micosinke, at Mistoveny, dividing the same into two parts, (as in the map now delivered), and from the said lake, a line to run south-westward into 49 degrees north latitude, as by the red line may more particularly appear, and that that latitude be the limit that the French do not come to the north of it, nor the English to the south of it.

That the French nor any others employed by them shall come to the north or north-westward of the said lake, or supposed line, by land or water, on or through any rivers, lakes, or countries, to trade or erect any forts or settlements whatsoever; and the English, on the contrary, not to pass the said supposed line, either to the southward or eastward.

The said Company having already delivered to your Lordships an abstract of the damages sustained by the French in times of peace, amounting to £100,543 13s. 9d., according to the direction of the 11th article of the aforesaid treaty, which they humbly entreat your Lordships to take care of, to the relief of the great hardships they have so long laboured under.

By order of the Governor and Company of Adventurers of England, trading into Hudson's Bay.

WM. POTTER,

*Secretary.*

Hudson's Bay House, 4th August, 1714.

*August 14th.*

*To the Right Honourable the Lords Commissioners of Trade, &c.*

MY LORDS,—The Lords Justices desire to have an account forthwith laid before them of what has been done since the peace, relating to Hudson's Bay, Nova Scotia, and St. Christopher's. Some things have passed in my office, others I believe in the treasury, and a considerable deal I doubt not has been done by your Lordships; wherefore if your Lordships pleased to collect a perfect state of the whole, I will furnish you with what you may want from me.

I am likewise on this occasion to put your Lordships in mind of the point referred to by the Treaty of Peace with France, to the discussion of commissaries, that their Excellencies may be acquainted with the orders given to the commissaries of commerce in those matters, and their proceedings thereupon.

Your letter of the 30th July, relating to Captain Van Estegle, has been laid before the Lords Justices, and the orders their Excellencies have been pleased to give thereupon, have been sent to the Treasury and Admiralty. It is likewise thought fit that your Lordships, in your station, should advertise the governors and other officers in the plantations, of their duty in the particulars mentioned in your letter, both with respect to the trading to the French settlement, and to the illegal landing of goods from thence.

I am,

My Lords,

Your Lordships' most humble servant,

BOLINGBROKE.

Whitehall, *August 12th*, 1714.

*To the Viscount Bolingbroke.*

MY LORD,—In obedience to their Excellencies the Lords Justices' commands, signified to us by your Lordship's letter of the 12th inst., requiring to know what has been done since the Peace relating to Hudson's Bay, Nova Scotia, and St. Christopher's, we take leave to represent:

That upon your Lordship's letter of the 22nd July, requiring us to prepare proper instructions for the British commissaries who are appointed to treat with those of France, upon the 10th, 11th, and 15th Articles of the Treaty of Peace, we wrote letters to several persons concerned in the Leeward Islands, and several parts of the continent, for what they might have to offer to such parts of the said Articles as did relate to them respectively, and have received answers from some of them. We pray your Lordship will please lay the enclosed copies thereof before their Excellencies the Lords Justices, as follows:

Copy of a memorial from the Hudson's Bay Company, describing the limits which they desire may be fixed between them and the French in those parts, as also an abstract of the damages they have sustained by the French in times of peace.

In relation to St. Christopher's, we further take leave to represent that upon several references from Her late Majesty in Council, from the Lord High Treasurer, and from the Secretary of State, we prepared a representation relating to the settlement of the French part of that Island, as also a letter to the late Lord Treasurer upon the same subject, copies whereof are here enclosed, which your Lordship will please also lay before their Excellencies the Lords Justices.

Since which time we have received some other petitions from French refugees, also referred to us, of the same nature as those mentioned in our above said representation, which we have not been yet able to consider so as to be able to make a report thereon.



We shall take care by the first opportunity to send directions to the governors and other officers in the Plantations, in relation to the illegal trade between the said Plantations and the said French settlements.

We are,  
My Lord,  
Your most obedient and humble servants,

PH. MEADOWS,  
ARTHUR MOORE,  
JNO. SHARPE,  
SAMUEL PYTTS,  
THOS. VERNON.

Whitehall, *Aug. 14th, 1714.*

THE DEFINITIVE TREATY OF PEACE AND FRIENDSHIP, BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA. SIGNED AT PARIS, THE 3RD SEPTEMBER, 1783.

(Extracts.)

ARTICLE I.—His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, propriety, and territorial rights of the same, and every part thereof.

ARTICLE II.—And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz., from the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north, from the source of St. Croix River to the Highlands, along the said Highlands which divide these rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Cataraquy, thence along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said lake, until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the said Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior, northward of the isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi; until it shall intersect the northernmost part of the thirty-first degree of north latitude: South, by a line to be drawn due east from the determination of the line last-mentioned in the latitude of thirty-one degrees north of the equator, to the middle of the River Apalachie or Catahouche; thence along the middle thereof to its junction with the Flint River; thence straight to the head of St. Mary's River, and thence down along the middle of St. Mary's River to the Atlantic Ocean: East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy, and the Atlantic Ocean; excepting such islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia.

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TREATY OF AMITY, COMMERCE, AND NAVIGATION BETWEEN HIS BRITANNIC MAJESTY AND THE UNITED STATES OF AMERICA, SIGNED AT LONDON, THE 19TH OF NOVEMBER, 1794. (Extracts.)

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ARTICLE IV.—Whereas it is uncertain whether the river Mississippi extends so far to the northward as to be intersected by a line to be drawn due west from the Lake of the Woods, in the manner mentioned in the Treaty of Peace between His Majesty and the United States ; it is agreed, that measures should be taken in concert with His Majesty's Government in America, and the Government of the United States, for making a joint survey of the said river from one degree of latitude below the Falls of St. Anthony, to the principal source or sources of the said river, and also of the parts adjacent thereto ; and that if, on the result of such survey, it should appear that the said river would not be intersected by such a line as is above mentioned, the two parties will thereupon proceed by amicable negotiation, to regulate the boundary line in that quarter as well as all other points to be adjusted between the said parties, according to justice and mutual convenience, and in conformity to the intent of the said treaty.

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TREATY OF GHENT, 1814.

ARTICLE VI.—Whereas by the former treaty of peace, that portion of the boundary of the United States from the point where the forty-fifth degree of north latitude strikes the River Iroquois or Cataraguy, to the Lake Superior, was declared to be “along the middle of said river into Lake Ontario; through the middle of said lake until it strikes the communication by water between that lake and Lake Erie ; through the middle of said lake until it arrives at the water communication into the Lake Huron ; thence through the middle of said lake to the water communication between that lake and Lake Superior :” and whereas doubts have arisen what was the middle of the said river, lakes and water communications, and whether certain islands lying in the same were within the dominions of His Britannic Majesty or of the United States : In order therefore finally to decide these doubts, they shall be referred to two Commissioners, to be appointed, sworn, and authorized to act exactly in the same manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in this present article. The said Commissioners shall meet, in the first instance, at Albany, in the State of New York, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners shall, by a report or declaration, under their hands and seals, designate the boundary through the said river, lakes, and water communications, and decide to which of the two contracting parties the several islands lying within the said river, lakes, and water communications, do respectively belong, in conformity with the true intent of the said Treaty of 1683. And both parties agree to consider such designation and decision as final and conclusive. And in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects as in the latter part of the Fourth Article is contained, and in as full a manner as if the same was herein repeated.

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CONVENTION BETWEEN GREAT BRITAIN AND THE UNITED STATES, SIGNED AT LONDON, OCTOBER 20, 1818. (Extracts.)

ARTICLE II.—It is agreed that a line drawn from the most north-western point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said



parallel, shall be the line of demarcation between the Territories of His Britannic Majesty and these of the United States ; and that the said line shall form the southern boundary of the said Territories of His Britannic Majesty, and the northern boundary of the Territories of the United States, from the Lake of the Woods to the Stony Mountains.

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TREATY BETWEEN GREAT BRITAIN AND THE UNITED STATES. SIGNED AT WASHINGTON, 9TH AUGUST, 1842. (Extracts.)

ARTICLE II.—It is, moreover, agreed that, from the place where the Joint Commissioners terminated their labours, under the VI. Article of the Treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the line shall run into and along the ship channel between St. Joseph's and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island ; thence turning eastwardly and northwardly around the lower end of St. George's or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island ; thence up the East Neebish Channel nearest to St. George's Island, through the middle of Lake George ; thence west of Jonas' Island into St. Mary's River, to a point in the middle of that river, about one mile above St. George's or Sugar Island, so as to appropriate and assign the said island to the United States ; thence adopting the line traced on the maps by the Commissioners, through the River St. Mary and Lake Superior, to a point north of Ile Royale, in said lake, 100 yards to the north and east of Ile Chapeau, which last-mentioned island lies near the north-eastern point of Ile Royale, where the line marked by the Commissioners terminates ; and from the last-mentioned point south-westerly through the middle of the sound between Ile Royale and the north-western main land, to the mouth of Pigeon River, and up the said river to and through the North and South Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods ; thence along the water communication to Lake Saisaginaga, and through that lake ; thence to and through Cypress Lake, Lac du Bois Blanc, Lac La Croix, Little Vermillion Lake, and Lake Namecan, and through the several smaller lakes, straits, or streams connecting the lakes here mentioned to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most north-western point of the Lake of the Woods ; thence along the said line to the said north-western point, being in latitude  $49^{\circ} 23' 55''$  north, and in longitude  $95^{\circ} 14' 38''$  west from the Observatory at Greenwich ; thence, according to existing Treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water communications,\* and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage, from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the subjects and citizens of both countries.

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TREATY BETWEEN HER MAJESTY AND THE UNITED STATES OF AMERICA, FOR THE SETTLEMENT OF THE OREGON BOUNDARY. SIGNED AT WASHINGTON, JUNE 15, 1846. (EXTRACTS.)

ARTICLE I.—From the point on the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly, through the middle of the said channel and of Fuca's Straits, to the Pacific Ocean ; provided, however, that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both parties.

II.—From the point at which the 49th parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall in like manner be free and open.

In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present Treaty.

III.—In the future appropriation of the territory south of the 49th parallel of north latitude, as provided in Article I. of this Treaty, the possessory right of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

IV.—The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company on the north side of the Columbia River, shall be confirmed to the said Company. In case, however, the situation of these farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole or any part thereof, the property so required shall be transferred to the said Government at a proper valuation to be agreed upon between the parties.

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OPINION OF SIR D. RYDER AND SIR W. MURRAY ON THE HUDSON'S BAY CO.'S  
CHARTER, 1784.\*

Joint opinion of the Attorney and Solicitor General, Sir Dudley Ryder and Sir William Murray, on a Petition which had been referred to the Privy Council, praying that the petitioners might be incorporated, and that the Crown would grant to them the Property of all the Lands they should discover, settle, and plant in North America, adjoining to Hudson's Bay, not already occupied and settled by the Hudson's Bay Company, with the like Privileges and Royalties as were granted to that Company, with the Right of exclusive trade. 1748. . . . .

We have taken the same (petition) into consideration, and have been attended by counsel both on behalf of the petitioners and the Hudson's Bay Company, who opposed the petition, as it interferes with their Charter. The petitioners insisted on two general things: that the Company's charter was either void in its original creation, or became forfeited by the Company's conduct under it; that the petitioners have, by their late attempts to discover the North-West passage and navigation in those parts, merited the favour petitioned for.

As to the first, the petitioners endeavoured to show that the grant of the country and territories included in the Company's Charter was void for the uncertainty of its extent, being bounded by no limits of mountains, rivers, seas, latitude or longitude; and that the grant of the exclusive trade within such limits as these were was a monopoly, and void on that account. With respect to both these, considering how long the Company have enjoyed and acted under this Charter without interruption or encroachment, we cannot think it advisable for his Majesty to make any express or implied declaration against the validity of it until there has been some judgment of a Court of Justice to warrant it; and the rather because, if the charter is void in either respect, there is nothing to hinder the petitioners from exercising the same trade which the Company now carries on. And the petitioners' own grant, if obtained,



will itself be liable in a great degree to the same objection. As to the supposed forfeiture of the Company's Charter by nonuser or abuser, the charge upon that head is of several sorts, viz., that they have not discovered, nor sufficiently attempted to discover, the north-west passage into the South Seas or Western Ocean; that they have not extended their settlements through the limits of their charter; that they have designedly confined their trade to a very narrow compass, and have for that purpose abused the Indians, neglected their own forts, ill-treated their own servants, and encouraged the French.

But in consideration of all the evidence laid before us by many affidavits on both sides (herewith inclosed), we think these charges are either not sufficiently supported in point of fact, or in a great measure accounted for from the nature and circumstances of the case. As to the petitioners' merit, it consists in the late attempts made to discover the same passage, which, however as yet unsuccessful in the main point, may probably be of use hereafter in that discovery if it should ever be made, or in opening some trade or other if any should hereafter be found practicable, and have certainly cost the petitioners considerable sums of money. But, as the grant proposed is not necessary in order to prosecute any further attempt of the like kind, and the charter of the Hudson's Bay Company does not prohibit the petitioners from the use of any of the ports, rivers, or seas included in their charter, or deprive them of the protection of the present settlements there, we humbly submit to your Lordship's consideration whether it will be proper at present to grant a charter to the petitioners, which must necessarily break in upon that of the Hudson's Bay Company, and may occasion great confusion by the interfering interests of two Companies setting up the same trade against each other in the same parts under the like exclusive charters.

All which is humbly submitted to your Lordships' consideration.

August 10th, 1748.

D. RYDER.  
W. MURRAY.

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MR. BEARCROFT'S OPINION AS TO THE VALIDITY OF THE CHARTER OF THE HUDSON'S BAY COMPANY.\*

*Q.* 1st. Whether the King, without the co-operation of the other Legislative powers, can grant to any company an exclusive trade for ever, together with a right of seizing the person and goods of a fellow-subject, without legal process; and if not, whether his having illegally granted such advantages and power, does not annul the charter?

*A.* I am of opinion that the King, without the assent of Parliament, cannot legally grant to any company, or to any individual, an exclusive trade for ever, together with a right to seize the person and goods of subjects, without process of law; and that such a grant, if made, is illegal, void, and without effect.

*Q.* 2nd. If this Charter is not valid upon the principle above stated, whether it is not voidable by the Company's neglecting to fulfil the views the King had when he granted it?

*A.* If such a Charter could be considered legal and valid in its commencement, yet it will be voidable by *Sci. Fa.* if the grantees neglect to endeavour, by reasonable and adequate means, to carry the purpose of it into effect.

*Q.* 3rd. Whether the grant to them, of the right of fishing, is exclusive, or whether the Greenland fishermen, who have a right to fish at Greenland and the seas adjacent, have not a right to fish at Hudson's Bay?

*A.* The Charter in question, as to so much of it as affects to grant an exclusive trade and inflict penalties and forfeitures, being, as I conceive, illegal and void, I am of opinion that the Greenland fishermen, who have a right to fish there, have also a right to fish in Hudson's Bay.

*Q.* 4th. If an individual invades the Charter, by fishing or trading in any of the places granted to the Company, and they seize his people, ship or goods, whether they have any and what remedy?

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\* This opinion and the two which follow are printed from a pamphlet published in 1818, and referred to in the evidence of the Right Hon. Edward Ellice, before the Committee of the House of Commons enquiring into the affairs of the Hudson's Bay Company, 1857; question 5,999.

A. If the Hudson's Bay Company, or those acting under their authority, shall venture to seize the person, ship, or goods of a British subject fishing there, the action is by action of trespass against the Company, or against the persons who do the act complained of, which action may be brought in any of the courts of Westminster Hall.

Q. 5th. If you should be of opinion that the Charter is in its present form illegal, which is the best way of attacking it—by invading the patent, and permitting them to seize or bring an action, and complaining or defending, according to the circumstances, or by applying to Parliament?

A. It is obvious that the safest way of attacking the Charter is by applying to Parliament or by *Sci. Fa.*, though in case of seizure, I cannot help thinking an action of trespass by the party injured would be successful.

Q. 6th. And generally to advise the parties proposing the present case, who wish to fish and trade in and near Hudson's Bay (and have sent out a ship which means to winter there, unless cut off by the Company's engines, and only wait for your opinion whether to send several more), for the best?

A. Upon the whole of this case, I am strongly inclined to think that the parties interested, if it is an object of importance to them, may venture to carry on the proposed trade immediately. The case of the East India Company and Sandys, determined at such a time, and by such Judges as it was, I cannot take to be law; and as to the length the said Charter has been granted and enjoyed, it is a clear and a well-known maxim of law, that which is not valid in the beginning cannot become so by lapse of time.

(Signed)

EDWARD BEARCROFT.

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MR. GIBBS' OPINION.—(1804.)

1st. Such a Charter may certainly be good in some cases, but I am of opinion that the Charter in question was originally void, because it purports to confer on the Company exclusive privileges of trading which, I think, the Crown would not grant without the authority of Parliament. In Sandys against the East India Company, Skinn. 132, 165, 197, 223, the arguments used against their Charter, which was not then confirmed by Act of Parliament, appear to me decisive upon the subject; and although both J. Jefferies and the other Judges of the King's Bench decided in favour of the Charter, I have understood that their judgment was afterwards reversed in Parliament.

Adam Smith, in his *Wealth of Nations*, treats it as an admitted point, that the Charter granted to the Hudson's Bay Company, and others of the like sort, not being confirmed by Parliament, are void, which I mention, not as a legal authority, but only to show how the question has been generally understood.

2nd. A Charter may be forfeited on this ground.

3rd. I should doubt whether they had by this acquiescence forfeited their exclusive privilege, if it ever existed; but this question is immaterial after my answer to the first.

4th. If the former were legal, this would be so likewise. I think them both legal, on the ground of my answer to the first query.

5th. Probably they might prosecute the captain; but if this question were material, it would be necessary that I should see a copy or abstract of the Charter before I could answer it.

6th. He might, if there were any legal cause of prosecution.

7th. I hardly think that they would be held to fall within this Act, nor does it signify whether they do or not. If my opinion is well founded, the North-West Company may navigate Hudson's Bay and carry on their trade as they please, without any fear of legal molestation in consequence of the monopoly claimed by the Hudson's Bay Company under their Charter, and I think they may act as if no such Charter existed.

(Signed)

V. GIBBS.

Lincoln's Inn, Jan. 7th, 1804.



*In the matter of the Hudson's Bay Company's Charter and their Grants to Lord Selkirk.*

(Copy.)

OPINION OF SIR ARTHUR PIGOTT, MR. SPANKIE, AND MR. BROUGHAM.—

JANUARY, 1816.

1st. Whether the exclusive trade, territories, powers and privileges granted by the Charter of Charles the Second, confirmed by the expired Act of King William, is a legal grant, and such as the Crown was warranted in making; and if it was, whether it entitles the Company to exclude the Canadian traders from entering their territory to trade with the Indians, and authorises the Governors and other officers appointed by the Company to seize and confiscate the goods of the persons so trading, without the license of the Company?

The prerogative of the Crown to grant an exclusive trade was formerly very much agitated in the great case of "*The East India Company versus Sandys*." The Court of King's Bench, in which Lord Jefferies then presided, held and decided that such a grant was legal. We are not aware that there has since been any decision expressly on this question in the Courts of Law, and most of the Charters for exclusive trade and exclusive privileges to Companies or Associations, have, since the Revolution, received such a degree of legislative sanction or recognition, as perhaps to preclude the necessity of any judicial decision on it. Much more moderate opinions were, however, entertained concerning the extent of the prerogative, after the Revolution, than prevailed in the latter part of the reign of Charles the Second, and in the reign of James the Second, and to those is to be attributed the frequent recourse which, after the Revolution, was had to legislative authority on such cases, and particularly in the very case of this Company, evidenced by the temporary Act of the 2nd of William and Mary, "for confirming to the Governor and Company trading to Hudson's Bay their privileges and trade;" a confirmation the duration of which the Legislature expressly limited to seven years and the end of the then next session of Parliament and no longer: and part of the preamble of that Act is, in effect, a legislative declaration of the insufficiency and inadequacy of the Charter for the purposes professed in it, without the aid and authority of the Legislature; which legislative aid and authority entirely ceased soon after the expiration of seven years after that Act passed.

In 1745, indeed, the 18th Geo. II., cap. 17, for granting a reward for the discovery of a North-west Passage through Hudson's Straits, enacts, "that nothing therein contained shall any ways extend, or be construed to take away or prejudice any of the estate, rights or privileges of or belonging to the Governor and Company of Adventurers of England trading into Hudson's Bay;" but this provision gives no validity whatever to the Charter, and only leaves its effect and authority as they stood before that Act, and entirely unaffected by it.

These parliamentary proceedings may at least justify the inference that the extent of the prerogative in this matter was considered as a subject which admitted of great doubt, in times when the independence of the judges insured a more temperate and impartial consideration of it. They may, however, be perhaps considered as too equivocal to afford any certain and conclusive authority on the strict question of law. Such rights, therefore, as the Hudson's Bay Company can derive from the Crown alone, under this extraordinary Charter, such as it is, may not be affected by these proceedings or declarations, and they may now rest entirely upon, and stand or fall by, the Common Law Prerogative of the Crown to make such a grant.

Upon the general question of the right of the Crown to make such a Grant, perhaps it may not be necessary for the present purpose that we should give any opinion. The right of the Crown merely to erect a company for trading by charter, and to make a

Horn v. Ivy, 1, grant of territory in King Charles the Second's reign, may not be disputable ; Siderfin, 441 ; and on the other hand, besides that this Charter seems to create, or attempt Nightingale v. Bridges, Show- to create, a Joint Stock Company, and to grant an exclusive right of trading, er, 185, and the there are various clauses in the Charter, particularly those empowering the Company to impose fines and penalties, to seize or confiscate goods and cases in Viner, ships, and seize or arrest the persons of interlopers, and compel them to give *ubi supra*, ad- security in £1,000, &c., &c., which are altogether illegal, and were always mitted by Lord Jefferies, Ch. J. so admitted to be, and among other times, even at the time when the in the East India Company, extent of the Prerogative in this matter was maintained at its height, to *v. Sandys, ubi supra*, p. 519. grant an exclusive right to trade abroad ; and even if, by virtue of their These clauses Charter, they could maintain an exclusive right to trade, we are clearly seem to be of a similar de- of opinion that they and their officers, agents or servants, could not justify scription to those in the any seizure of goods, imposition of fine or penalty, or arrest or imprison- East India Company's ment of the persons of any of His Majesty's subjects. Probably the Com- Charter in that case con- pany would have some difficulty in finding a legal mode of proceeding sidered. against any of those who infringe their alleged exclusive rights of trad- ing, or violate their claimed territory ; for we hold it to be clear that the methods pointed out by the Charter would be illegal, and could not be supported.

But we think that the Hudson's Bay Company and their grantee, Lord Selkirk, have extended their territorial claims much farther than the Charter or any sound construction of it will warrant. Supposing it free from all the objections to which we apprehend it may, in other respects, be liable, the words of the Grant, pursuing the recital of the petition of the grantees, with a very trifling variation, and with none that can affect the construction of the instrument, are of "the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks, and sounds, in whatever latitude they shall be, that lie within the entrance of the Straits, commonly called Hudson's Straits, together with the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid : " that is, within the Straits—and these limits are frequently referred to in the subsequent parts of the Charter, and always referred to throughout the Charter as "the limits aforesaid."

There is, indeed (p. 10), an extension of the right of trade, and His Majesty grants that the Company "shall for ever hereafter have, use and enjoy not only the whole entire and only liberty of trade and traffic, and the whole entire and only liberty, use and privilege of trading and traffic to and from the territories, limits and places aforesaid, but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes, and seas into which they may find entrance or passage by water or land, out of the territories, limits and places aforesaid, and to and with all the natives and people, inhabitants, or which shall inhabit within the territories, limits and places aforesaid, and to and with all other nations inhabiting any of the coasts adjacent to the said territories, limits and places aforesaid, which are not already possessed as aforesaid."

It is plain, therefore, that the Territorial Grant was not intended to comprehend all the lands and territories that might be approached through Hudson's Straits by land or water. The Territorial Grant then appears to be limited by the relation and proximity of the territories to Hudson's Straits. The general description applying to the whole, is the seas, &c., that lie within Hudson's Straits, and the land, &c., upon the countries, coasts, and confines of the seas, &c., that is, *Reddendo Singula Singulis*, the lands upon the countries, coasts, and confines of each of the seas, rivers, &c., naturally including such a portion of territory as might be reasonably necessary for the objects in view ; but it is not a grant of all the lands and territories in which the seas, rivers, &c., lie, or are situated, or which surround them to any indefinite extent or distance from them. Still less is it a grant of all the lands and territories lying between the seas, straits, rivers, &c., though many hundred or thousand miles or leagues of land and territories might lie between one sea, strait, river, lake, &c., and another sea, strait, river, lake, &c., and though the quantity of land comprised in this interior situation, and far distant from any coast or confine of the specified waters, might exceed in dimensions the extent of many existing powerful kingdoms or states. Within the straits, must mean such a proximity to the straits as would give the lands spoken of a sort of affinity or relation to Hudson's



Straits, and not such lands as, from their immense distance (in this case the nearest point to Hudson's Bay being 700 miles, and from thence extending to a distance of 1,500 miles from it), have no such geographical affinity or relation to the straits, but which are not even approached by the Canadians through or by the straits in question. The whole Grant contemplates the straits as the access to the lands and territories therein referred to; and, as there is no boundary specified, except by the description of the coasts and confines of the places mentioned, that is, the coasts and confines of the seas, &c., within the straits, such a boundary must be implied as is consistent with that view, and with the professed objects of a trading company intending, not to found Kingdoms and establish States, but to carry on fisheries on those waters, and to trade and traffic for the acquisition of skins and peltries, and the other articles mentioned in the Charter; and in such a long tract of time as nearly 150 years now elapsed since the grant of the Charter, it must now be, and must indeed long since have been, fully ascertained by the actual occupation of the Hudson's Bay Company, what portion or portions of lands and territories in the vicinity, and on the coasts and confines of the waters mentioned and described as within the straits, they have found necessary for their purposes, and for forts, factories, towns, villages, settlements or such other establishments in such vicinity, and on such coasts and confines, as pertain and belong to a Company instituted for the purposes mentioned in their Charter, and necessary, useful, or convenient to them within the prescribed limits for the prosecution of those purposes. The enormous extensions of land and territory now claimed appears therefore to us not to be warranted by any sound construction of the Charter; and if it could be so, we do not know where the land and territory of the Hudson's Bay Company, granted by this Charter, terminate, nor what are the parts of that vast Continent on which they have taken upon them to grant 116,000 miles of territory exempted from their proprietorship under their Charter.

Indeed, there may be sufficient reason to suppose that the territories in question, or part of them, had been then visited, traded in, and in a certain degree occupied by the French settlers or traders in Canada, and their Beaver Company erected in 1630, whose trade in peltries was considerable prior to the date of the Charter. These territories, therefore, would be expressly excepted out of the Grant; and the right of British subjects in general to visit and trade in these regions would follow the national rights acquired by the King, by the conquest and cession of Canada, and as enjoyed by the French Canadians previous to that conquest and cession.

No territorial right, therefore, can be claimed in the districts in question; and the exclusive trade there cannot be set up by virtue of the Charter, these districts being remote from any geographical relation to Hudson's Bay and to the Straits, and not being in any sense within the straits, and not being approached by the Canadian traders, or other alleged interlopers through the interdicted regions. Of course no violence to or interruption of trade could be justified there under these territorial claims.

2nd. Whether the Hudson's Bay Company were warranted in making a Grant to Lord Selkirk, as one of their own body, of the immense district of territory described in Governor M'Donnell's Proclamation, notwithstanding the opposition of part of the Proprietors of Stock; and after making such Grant, has the Company any right to exercise their jurisdiction in appointing Governors and other officers over that district; or can they grant or transfer such power to his lordship? If you should be of opinion that the Grant to his lordship is illegal, unwarrantable by the Charter, what measures ought to be taken to set aside the same?

The validity of the Grant to Lord Selkirk may be considered both as it affects the members of the Company and the public at large.

If, contrary to our opinion, the land and territory in question were within the Grant, then the Grant of so large a portion of territory as that of Lord Selkirk, being not less than 116,000 square miles, might perhaps seem an abuse of the Charter, which might justify the interference of the Crown. Because, though the Company might have a right to make grants of land, such grant must be for the promotion of, or at least must be consistent with, the object of the Institution. But the Grant to Lord Selkirk tends to an establishment independent of the Company, inconsistent with the purposes of their Institution and its effects; erecting a sub-monopoly in one person, to the detriment both of the Company and of the public. The Company could confer no power upon Lord Selkirk to appoint Governors, Courts of

Justice, or exercise any independent authority, nor could they, directly or indirectly, transfer their authority to him, to be exercised by him in his own name. Supposing the Grant of land to be such a Grant as falls within the powers of the Company to make, their superior lordship and authority would continue as before, and must be exercised through them.

3rd. Whether the jurisdiction given by the Act of 43rd Geo. III. to the Canadian Courts of Criminal Judicature, extends to the Territories of the Hudson's Bay Company, so as to entitle those Courts to try and punish offences committed within those territories? And whether Governor M'Donnell, and Mr. Spencer, his Sheriff, can legally be tried before the Canadian Courts for the offence with which they now stand charged?

There seems no reason to doubt that offences actually committed in the territories and districts in dispute, where no Court of Judicature is or ever has been established, might, in point of jurisdiction, legally be tried by the Courts of Canada, under the 43rd Geo. III., Cap. 138; and indeed, unless this district was within the propositions of that Act, we cannot discover what territory was meant to be included in it; and we think that though the jurisdiction might be capable of being supported, the acts done by Messrs M'Donnell and Spencer could not be deemed larceny, and that they, or others acting in similar circumstances, ought not to be indicted or brought to a trial for the crime of larceny. They acted, perhaps erroneously, upon a claim of territorial dominion and of exclusive commercial privilege, and may be liable to be proceeded against as for a trespass or other injury to persons or property; but we think they could not be properly convicted on a charge of felony.

4th Is it competent to the Governors and other officers already appointed, or that may be appointed by the Hudson's Bay Company, to seize and bring to trial before their Courts of Judicature, His Majesty's Canadian subjects who may be found trading within the Company's territories, for infringing the Company's monopoly, or for committing any other alleged crime or offence?

Supposing the Charter of the Company valid, and the districts in dispute to be within their limits, we should still doubt whether the Governor and Company have lawful power by Charter to establish courts for the trial by the laws of England of offences committed therein. That power the Company have never yet attempted to exercise, though nearly 150 years have elapsed since they procured their Charter. But if they should still possess the extraordinary power without further authority, legislative or regal, we should nevertheless think that no Courts there established would have authority to try and punish as an offence the act of going there simply; which, if the Grant be legal, could amount at the most only to a misdemeanour or contempt of the King's lawful authority, to be prosecuted at the suit of His Majesty. But the Charter itself seems to take offence, as far as the Company are concerned, out of the jurisdiction of the local Courts by (illegally indeed) prescribing certain forfeitures, and declaring (page 12) "that every the said offenders, for their said contempt to suffer such punishment as to us, our heirs and successors, shall seem meet or convenient, and not to be in amprize (query, mainprize?) delivered until they and every of them shall become bound unto the said Governor for the time being, in the sum of £1,000 at least, at no time thereafter to trade," &c. A subsequent clause (page 16) authorizes the seizing and sending to England those who come into their territories without authority. It seems, therefore, that the Courts in question would have no power to try as an offence at common law the mere coming into the Company's territories contrary to the prohibition in the Letters Patent, which point out other modes of proceeding, and legally confer no other powers applicable to the case.

If the question were merely a question of boundary between two acknowledged adjacent colonies or provinces, it might perhaps be determined by the King in Council, where we apprehend such a jurisdiction is vested, and has been exercised, but that probably would not set at rest the principal points, or prevent interference. The validity of the Grant of an exclusive trade might, we apprehend, be tried directly by *Scire Facias*, or incidentally in actions of trespass, which, however, might still leave other main points undecided; and the Company might perhaps be capable of retaining some part of what has been granted to them, and might fail as to many others. In these circumstances, it appears that interests and pretensions so opposite, and which may be productive of so much confusion and disorder, and of consequences so dangerous and destructive to the persons and properties of those who, by reason of the failure of the ordinary means of pro-



tection afforded by the law, may be said to be peculiarly under the safeguard of Government, can only be effectually and satisfactorily adjusted and reconciled by Government, with the aid and authority of Parliament; and by that authority (after causing such an investigation into them as Government would, in such a case, probably feel it indispensable to make, and are fully possessed by the law officers of the Crown, and otherwise, of all the means of making,) due allowance would be made for such rights of the Company as were deemed legal and well founded, and protection and freedom secured to the Canadians as well as to the rest of the King's subjects, in the prosecution of that commerce which the Canadians have long enjoyed, and which the rest of the King's subjects have frequently, and whenever they thought proper, carried on, and which, it is stated to us, they have never been hitherto attempted to be interrupted in by the Hudson's Bay Company.

OPINION OF RICHARD BETHELL, A.G., AND HENRY S. KEATING, S.G.\*

JULY, 1857.

SIR,—We are favoured with Mr. Merivale's letter of the 9th of June ultimo, in which he stated that he was directed by you to transmit to us copies of two despatches from the Governor of Canada, inclosing the copy of a Minute of his Executive Council, and extract from another Minute of the same in reference to the questions respecting the affairs of the Hudson's Bay Company, then under investigation by a Committee of the House of Commons.

We were also requested to observe from the former of these Minutes that the Executive Council suggest, on the part of Canada, a territorial claim over a considerable extent of country, which is also claimed by the Hudson's Bay Company, as owners of the soil, and with rights of government and exclusive trade under their Charter.

We were also requested to observe by the annexed parliamentary papers of the 12th of July, 1850, that the statement of the Hudson's Bay Company's rights as to territory, trade, taxation, and government, made by them to Earl Grey, as Secretary of the Colonies, on the 13th September, 1849, was submitted to the then law officers of the Crown, who reported that they were of opinion that the rights so claimed by the Company properly belonged to them, but suggested, at the same time, a mode of testing those claims by petition to Her Majesty, which might be referred to the Judicial Committee.

Mr. Merivale was further to annex a Parliamentary Return made in 1842, containing the Charter of the Company, and documents relating thereto; and another of 23rd April, 1849, containing, among other papers, an Act of 2nd William and Mary, "for confirming to the Governor and Company trading to Hudson's Bay their privileges and trade."

The rights so claimed by the Company have been repeatedly questioned since 1850 by private persons in correspondence with the Secretary of State, and were then questioned to a certain extent, as appears by those despatches, by the present local Government of Canada.

Mr. Merivale was also to request that we should take those papers into our consideration, and report—

Whether we thought the Crown could lawfully and constitutionally raise, for legal decision, all or either of the following questions:—

The validity at the present day of the Charter itself.

The validity of the several claims of territorial right of government, exclusive trade, and taxation insisted on by the Company.

The geographical extent of this territorial claim (supposing it to be well founded to any extent).

And if we were of opinion that the Crown could do so, we were requested further to state the proper steps to be taken, in our opinion, by the Crown, and the proper tribunal to

\* This opinion is printed in the volume containing the evidence taken before the Committee of the House of Commons enquiring into the affairs of the Hudson's Bay Company, 1857, p. 403.

be resorted to; and whether the Crown should act on behalf of the local Government of Canada, as exercising a delegated share of the Royal authority, or in any other way.

And, lastly, if we should be of opinion that the Crown could not properly so act, whether we saw any objection to the questions being raised by the local Government of Canada, acting independently of the Crown, or whether they could be raised by some private party in the manner suggested by the law advisers in 1850, the Crown undertaking to bear the expense of the proceedings.

In obedience to your request, we have taken the papers into our consideration, and have the honour to report—

That the questions of the validity and construction of the Hudson's Bay Company's Charter cannot be considered apart from the enjoyment that has been had under it during nearly two centuries, and the recognition made of the rights of the Company in various acts, both of the Government and the Legislature.

Nothing could be more unjust, or more opposed to the spirit of our law, than to try this Charter as a thing of yesterday, upon principles which might be deemed applicable to it if it had been granted within the last ten or twenty years.

These observations, however, must be considered as limited in their application to the territorial rights of the Company under the Charter, and to the necessary incidents or consequences of that territorial ownership. They do not extend to the monopoly of trade (save as territorial ownership justifies the exclusion of intruders), or to the right of an exclusive administration of justice.

But we do not understand the Hudson's Bay Company as claiming anything beyond the territorial ownership of the country they are in possession of, and the right, as an incident to such ownership, of excluding persons who would compete with them in the fur trade carried on with the Indians resorting to their districts.

With these preliminary remarks we beg leave to state, in answer to the questions submitted to us, that in our opinion the Crown could not now, with justice, raise the question of the general validity of the Charter; but that on every legal principle the Company's territorial ownership of the lands, and the rights necessarily incidental thereto (as, for example, the right of excluding from their territory persons acting in violation of their regulations), ought to be deemed to be valid.

But with respect to any rights of government, taxation, exclusive administration of justice, or exclusive trade, otherwise than as a consequence of the right of ownership of the land, such rights could not be legally insisted on by the Hudson's Bay Company as having been legally granted to them by the Crown.

This remark, however, requires some explanation.

The Company has, under the Charter, power to make ordinances (which would be in the nature of by-laws) for the government of the persons employed by them, and also power to exercise jurisdiction in all matters, civil and criminal; but no ordinance would be valid that was contrary to the Common Law, nor could the Company insist on its right to administer justice as against the Crown's prerogative right to establish courts of civil and criminal justice within the territory.

We do not think, therefore, that the Charter should be treated as invalid because it professes to confer these powers upon the Company; for to a certain extent they may be lawfully used, and for an abuse of them the company would be amenable to law.

The remaining subject for consideration is the question of the geographical extent of the territory granted by the Charter, and whether its boundaries can in any and what manner be ascertained. In the case of grants of considerable age, such as this Charter, when the words, as is often the case, are indefinite or ambiguous, the rule is, that they are construed by usage and enjoyment, including in these latter terms the assertion of ownership by the Company on important public occasions, such as the Treaties of Ryswick and Utrecht, and again in 1750.

To these elements of consideration upon this question must be added the enquiry (as suggested by the following words of the Charter, viz., "not possessed by the subjects of any other Christian prince or state"), whether, at the time of the Charter, any part of the territory now claimed by the Hudson's Bay Company could have been rightfully claimed by the French as falling within the boundaries of Canada or Nouvelle France, and also the effect of the Acts of Parliament passed in 1774 and 1791.



Under these circumstances, we cannot but feel that the important question of the boundaries of the Hudson's Bay Company might with great utility, as between the Company and Canada, be made the subject of a quasi-judicial inquiry.

But this cannot be done except by the consent of both parties, namely Canada and the Hudson's Bay Company; nor would the decision of a Committee of the Privy Council have any effect as a binding judicial determination.

But if the Hudson's Bay Company agree to the proposal of the Chief Justice of Canada, that the question of boundaries should be referred to the Privy Council, it being further understood by both parties that the determination of the Council shall be carried into effect by a declaratory Act of Parliament, we think the proceeding would be the best mode of determining that which is, or ought to be, the only real subject of controversy.

The form of procedure might be a petition to the Queen by Chief Justice Draper, describing himself as acting under the direction of the Executive Council of Canada, unless, which would be the more solemn mode, an address were presented to Her Majesty by the Canadian Parliament.

Council would be heard on behalf of Canada, and of the Company.

We are, &c.,

(Signed)

RICHARD BETHELL,  
HENRY S. KEATING.

The Right Honourable

H. Labouchère, M.P., &c.

### DE REINHARD'S CASE.

Charles De Reinhard was tried in the District of Quebec on the 18th day of May, 1818, under the authority of a Special Commission, issued by Hon. John C. Sherbrooke, Governor of Lower Canada, dated 29th April, 1818, and authorizing such trial under the Act 43 Geo. III. chap. 138, for murder committed at the Dalles, on the assumption that this place was situate in the Indian Territory, or parts of America not within the limits of Upper or Lower Canada, or of any Civil Government of the United States of America; and the jurisdiction depended on whether the place where the murder was committed was within Upper Canada. The following evidence on this point was given:—

#### THE EVIDENCE.

WILLIAM SAX, Sworn.—I am a surveyor; I am acquainted, according to a map which I have here, with the limits of Upper Canada, that is to say, of the old Province of Quebec; the western limit, the mouth of the river Ohio, is in longitude  $88^{\circ} 50'$  west from Greenwich, and latitude  $37^{\circ} 10'$  north. That appears by a map which I have made and have in my hand, to be the latitude and longitude of the junction of the Ohio river with the Mississippi.

Chief Justice SEWELL.—When you speak of the junction of the Ohio with the Mississippi river, do you mean where the Ohio river empties itself into the banks of the Mississippi?

Mr. SAX.—That is the understanding, and the Statute provides also—

Chief Justice SEWELL.—We do not require any information or assistance in the construction of the statute; we require it as to the fact. The construction of the statute, it is our province to decide on.

ATTORNEY GENERAL.—Would a line running north, from the junction of the Ohio and Mississippi rivers strike, in its passage to the Hudson's Bay territory, the great lakes, and where would it strike Lake Superior? And where would it leave Fort William?

Mr. SAX.—Such a line drawn due north, would strike Lake Superior on its passage, and at or about a degree east of Fort William, or perhaps three-quarters of a degree.

ATTORNEY GENERAL.—That is to say, the West end of Lake Superior?

Mr. SAX.—Yes, nearly so—when I say that such a line would strike east of Fort William, I mean that it would leave Fort William about three-quarters of a degree to the west of it. It is so laid down in all the maps.

ATTORNEY GENERAL.—From your knowledge of maps, will you then explain in French to the jury, this line.

Mr. SAX having done so, continued his evidence. I am acquainted with the river Winnipic by the maps, and it is between the 50th and 51st degree of north latitude. The Portage des Rats is in  $49^{\circ} 34'$  by this map, or  $49^{\circ} 45'$ , and longitude  $94^{\circ} 6'$  west from Greenwich, and the river Winnipic is consequently about  $5^{\circ}$  west of the line running north from the junction of the rivers Ohio and Mississippi, and certainly, without the old Province of Quebec.

Chief Justice SEWELL.—What are you speaking of now?

Mr. SAX.—That a line, supposing it to run due north from the junction of the Ohio and Mississippi rivers, would leave the river Winnipic five degrees out of the Province of Upper Canada, not a northward line, but a due north line.

ATTORNEY GENERAL.—Do you mean to say that a northward line is not a north line?

Mr. SAX.—It is not always, it may be north by east, or north by west, or north-north-west, or many other points of the compass. A due north line is one that goes direct to the north pole without any deviation whatever.

ATTORNEY GENERAL.—And does not a northward line go to the north pole? If you had a northward line to run, would you not run it to the north pole?

Mr. SAX.—Perhaps I might and perhaps not; I would certainly run it northerly, though I might not run it due north.

ATTORNEY GENERAL.—What is to prevent you taking it due north? If you had a line to run from a given point till it struck a river, and thence to continue along the course of that river northward, would you not call that drawing a northern line?

Mr. SAX.—Undoubtedly it would be a northern line, but not a due north line.

ATTORNEY GENERAL.—Would it not? Could it be east or west?

Mr. SAX.—It might according to circumstances be a north-eastward or north-westwardly line, and yet a northern line, that is a line having a northward course or drawing nearer to the north pole as it progressed, though not an astronomical north line.

ATTORNEY GENERAL.—Is not a north line a line northward?

Mr. SAX.—Certainly, a line running due north is undoubtedly a northward line.

ATTORNEY GENERAL.—And a line true-north-westward you would call a north-westward line.

Mr. SAX.—Certainly; a line due north-west is a north-westward line, but a line, for instance, that runs towards the north, notwithstanding it may gain in its course more nothing than westing or easting, is not therefore necessarily a due north line, but is a northern or northward line.

Chief Justice SEWELL.—I really do not comprehend the distinction; to say that a northward line is not a north line, I confess appears to me to approach the "*reductio ad absurdum*." Suppose that we had a compass here, and from a given point I draw a line north-westward, that is to say, terminating at a point north-westward, would not that be a due north-west line?

Mr. SAX.—It would, if drawn due north-west, but if in drawing it you gained northerly, it would, from the course of its deviation, be a line northward, though not a north line.

Chief Justice SEWELL.—Then its course northward must unquestionably be due north—if a line north-westwardly is a north-west line.

Mr. VALLIÈRE DE ST. RÉAL.—Your honour will observe that he added, "but if it deviated so, as to 'gain a little north,' it would then be a northward line."

Chief Justice SEWELL.—If a line is to be drawn from a given point of the compass, say from the west in a northward direction, to say that such a line would not be a due north line, appears to me to be a contradiction to the plainest principle of common sense, and totally irreconcilable. I will put the question to you again, sir. Do I understand you to say, that a line drawn from a given point northward is not a north line?

Mr. SAX.—Surveyors usually call lines running—

Chief Justice SEWELL.—I am not asking you what surveyors usually call—I want to know whether in point of fact, a fact that any man can tell as well as a surveyor, whether a line from the eastern or western point of the compass, drawn northward, is, or



is not a north line? Just answer that question, yes or no, and then you may explain that answer in any way you think proper.

MR. SAX.—It certainly must be, to a certain extent, a north line, but not a due north line.

Chief Justice SEWELL.—Why not?

MR. SAX.—A line drawn from any point, between two cardinal points of the compass direct to any cardinal point, is a due north or west line as the case may be; but a line may be so drawn between two points as to be called by surveyors a northward or a southward line, as it may chance to gain in the course of running it upon that point of the compass to which it is approaching; as I might draw a line from a point north-westwardly, but gaining in a northerly direction in its course, so that at its termination it would be a line northward, from having more northing there than at the point from which I started.

Chief Justice SEWELL.—Would not a line drawn from a westerly point, one half north and one half east, be a due north-east line, or must not lines drawn from any point in one half the compass between east and west be a north and, in the other half, a south line?

MR. SAX.—Certainly, while progressing north or south, but they might be gaining east or west.

Chief Justice SEWELL.—Is it then equally true, that lines running east from points between north and south are due east lines?

MR. SAX.—Yes, if progressing east.

ATTORNEY-GENERAL.—Then they cannot be northward any more than north.

MR. SAX.—An identical line from any point running a direct course east, is undoubtedly an eastern line, but if inclining in its course half north and half east it is a north-east line.

Chief Justice SEWELL.—Am I to understand you that one and the same line can be a northern and eastern line?

MR. SAX.—The same line may be a north-east line.

Chief Justice SEWELL.—Let me be clearly understood by you, because at present I do not at all comprehend what you mean. Taking as a point of departure a centre, and travelling on the radius of a circle, would not the line, according to what you say, be at one and the same time a due north-east and a due north-west line—which appears to me completely a “*reductio ad absurdum*,” though you certainly have said so.

ATTORNEY-GENERAL.—If your honour will permit me, I will ask him a question.—If you were directed simply to draw a boundary line northward, would you qualify it in any way by drawing it to the east or west, or would you go as nearly in a direct north course as possible?

Which question being repeated in French—

MR. SAX.—If I were directed to draw a northward line without any other instruction, I should draw it as due north as I could. It would also depend upon whether I was desired to draw it astronomically or magnetically, for the variations between an astronomical and a magnetic line extend in some places from twenty to thirty degrees, and in some places they agree. The astronomical line is the true parallel.

ATTORNEY-GENERAL.—But whether you run the line astronomically or magnetically, still in running an unqualified northward line, you would get as much to the north as you could?

MR. SAX.—Yes; if I had to draw a line northward, without other instruction, I should draw it due north either astronomically or magnetically; magnetically if there was any variation, and astronomically if there was none.

ATTORNEY-GENERAL.—Will the Court have the goodness to take that down. How, sir, would a line drawn due west from the Portage des Rats, strike the River Mississippi?

MR. SAX.—A line drawn due west from the Portage des Rats would never strike it at all.

Chief Justice SEWELL.—What line are you speaking of now—the American line?

ATTORNEY-GENERAL.—Yes, your Honour. Well, but if a line was drawn from Portage des Rats, any way to the Mississippi, would it in its passage strike the lake or River Winnipic, or how would it leave them?

Mr. SAX.—A line drawn from Portage des Rats to the River Mississippi would leave the whole of the River Winnipic to the north-west of such a line.

Chief-Justice SEWELL.—But Portage des Rats is not the point of departure ; it is “ the most north-western point of the Lake of the Woods ” which we want.

ATTORNEY-GENERAL.—The most north-western corner of the Lake of the Woods is Portage des Rats. Do not the English and American maps agree in that particular ?

Mr. SAX.—Yes ; they both make that the most north-western point of the Lake of the Woods ; and a line drawn from there to the Mississippi, would leave both the lake and River Winnipic entirely to the north-west of it.

ATTORNEY-GENERAL.—And if a line were drawn due west, as the Americans contend it ought to be, would the effect be the same ?

Mr. SAX.—Yes ; a line drawn due west would leave the whole of the River Winnipic to the north-west.

[Mellish's Map of the United States, produced by the Attorney-General.]

ATTORNEY-GENERAL.—Are you acquainted with the map which Mr. Mellish has published under the auspices of the Government of the United States ? Look at it, if you please, and tell the Court and the gentlemen of the jury how it lays down the Portage des Rats, or the River Winnipic.

Mr. SAX.—This map leaves it wholly to the north-west, excepting perhaps a particular elbow, where the river runs into the Lake of the Woods.

ATTORNEY-GENERAL.—It must be so entirely, for if not, you do not draw your line correctly after the Statute ; it must be from the dead water of the lake you start, or you take your departure from a river.

Mr. SAX.—It may be and actually is the proper point of departure, at the very point where the two join. And that is in conformity with the best charts or maps both English and American.

ATTORNEY-GENERAL.—Will your honour please to take that down ?

*Cross-examined by Mr. Vallière de St. Réal.*

Mr. SAX.—I have seen many charts and maps, and it is from them I derive my knowledge of the latitudes and longitudes of which I spoke. The maps of Jeffreys and Bouchette, I believe, agree, and in these maps the western limit of the old province of Quebec runs from the junction of the Ohio and the Mississippi, following the Mississippi until its source, which is called Turtle Lake, in latitude  $47^{\circ} 38'$  north, and longitude  $94^{\circ}$ , or more correctly,  $95^{\circ}$  west.

Mr. VALLIÈRE DE ST. RÉAL.—Of Greenwich ?

Mr. SAX.—Yes, west from Greenwich.

Mr. Justice BOWEN.—What did you say was the latitude ?

Mr. SAX.— $47^{\circ} 38'$  north.

Chief Justice SEWELL.—Do I understand you right, sir, when I take, you say that the head of the Mississippi in Turtle Lake has about  $47^{\circ} 38'$  northern latitude, and about  $95^{\circ}$  western longitude, calculating it from the meridian of Greenwich ?

Mr. SAX.—Yes, that is about the latitude and longitude.

Mr. Justice BOWEN.—From whence does the line go ?

Mr. VALLIÈRE DE ST. RÉAL.—Northward or due north, is it ?

ATTORNEY-GENERAL.—I beg my learned friend will permit the Court to put their own questions as they think proper.

Chief Justice SEWELL.—You are certainly right. The Court can have no desire but that which is common to all parties—that of obtaining truly and correctly the facts of the case, and if, Mr. Vallière, the Court does not obtain thereby the information you think important to obtain, you can extract it yourself. Our question does not deprive you of your right of cross-examination. How does the line run ?

Mr. SAX.—From the source of the River Mississippi it runs by a line due north to Hudson's Bay. It is thus drawn in Bouchette's map—it stops in Jeffrey's map at Turtle Lake—and consequently it will leave the source (beginning) of the Lake of the Woods to the east of such a line, and the Dalles is also to the east.



Mr. VALLIÈRE DE ST. RÉAL.—You only know that from maps, I believe ; you was never there, I imagine ?

Mr. SAX.—I was never there ; it is only from maps that I speak.

Mr. VALLIÈRE DE ST. RÉAL.—I have done with Mr. Sax.

ATTORNEY-GENERAL.—Respecting these maps—what nation does Jeffreys belong to ?

Mr. SAX.—Jeffreys is an English author or geographer.

Mr. VALLIÈRE DE ST. RÉAL.—I wish that to be taken down.

ATTORNEY-GENERAL.—Where was his map published ?

Mr. SAX.—I do not know ; it does not mention on the map.

Mr. JOSEPH BOUCHETTE, JUN., Sworn :

ATTORNEY-GENERAL.—You, Sir, are I believe, Deputy-Surveyor-General of this Province, and can give us the western line of Upper Canada ?

Mr. BOUCHETTE.—I am Deputy-Surveyor-General of the Province. The western limit of Upper Canada is a line running due north from the junction of the Rivers Ohio and Mississippi to the southern limits of the Bay of Fundy.

ATTORNEY-GENERAL.—Not Fundy, I believe ?

Mr. BOUCHETTE.—No, Hudson's Bay, and the latitude of the junction of those rivers is  $37^{\circ} 10'$  north, and the longitude is  $88^{\circ} 58'$  west from the meridian of Greenwich ; and this line will leave the whole of the River Winnipic to the west. The Portage des Rats is in latitude  $49^{\circ} 51'$  north, and longitude  $94^{\circ} 10'$  west from Greenwich.

ATTORNEY-GENERAL.—Do you know the Dalles ?

Mr. BOUCHETTE.—I have discovered it laid down in Arrowsmith's chart, as being about twelve miles above, that is farther north than Portage des Rats. The place called the Dalles is twelve miles to the north of Portage des Rats, according to Arrowsmith. The most north-western point of the Lake of the Woods is in latitude  $49^{\circ} 28'$  north, and longitude  $94^{\circ} 25'$  west from Greenwich.

ATTORNEY-GENERAL.—How would a line drawn from there to the Mississippi leave the Winnipic, as relates to the United States of America ?

Mr. BOUCHETTE.—It would leave the whole of the River Winnipic to the north, and consequently out of the limits of the United States of America ; it would leave the head of the Mississippi to the south.

ATTORNEY-GENERAL.—Yes, but I want the Winnipic only ; and also tell us what would be the effect of a line drawn due west from the most north-western point of the Lake of the Woods ?

Mr. BOUCHETTE.—A line running from the most north-western point of the Lake of the Woods to any part of the River Mississippi will leave the whole of the River Winnipic to the north, and the same thing will happen if a line be drawn due west ; and consequently that river is without the boundaries of the United States of America.

ATTORNEY-GENERAL.—Now, sir, you say you know the Dalles ?

Mr. BOUCHETTE.—According to Mr. Arrowsmith's map, they are four leagues to the north of Portage des Rats, and consequently not within the United States.

Chief Justice SEWELL.—The Dalles, are they on the Winnipic ?

Mr. BOUCHETTE.—Yes ; to the north of the Lake of the Woods, and also of Portage des Rats.

Cross examination by Mr. STUART.—What age are you, Sir ?

Mr. BOUCHETTE.—I am nineteen years old.

Mr. STUART.—I observe you have a map before you ; what map is it ?

Mr. BOUCHETTE.—It is the map lately published by my father, the Surveyor General.

Mr. STUART.—I believe you never were at any of these places beyond Upper Canada, or at the mouth of the Ohio, or ever out of Lower Canada ; never I believe in the United States ?

Mr. BOUCHETTE.—I never was at the mouth of the river Ohio, nor at the Lake of the Woods, nor at the river Winnipic ; I have been out of Lower Canada, and in the United States, but not in that part. My sole knowledge of the latitudes and longitudes is derived from my father's map now before me, and Mr. Arrowsmith's, published in 1795.

Mr. STUART.—You have spoken of a line as being the boundary of Upper Canada. Does it appear upon your father's map ?

Mr. BOUCHETTE.—The green line upon the manuscript map before me prolonged from longitude 88° 58' west and running due north, was copied from a map by Emanuel Bowen, in 1775, at London. It runs due north from the confluence of the rivers. In other maps the western limit of Upper Canada is drawn as running from the mouth of the river Ohio in the Mississippi until its source in Turtle Lake.

Mr. STUART.—Here is a purple line, what does that show?

Mr. BOUCHETTE.—That is principally for a heading to the map; it is, however, copied from some map, but I do not recollect of what geography.

Mr. STUART.—I observe another line, but I hardly know what colour to call it (though blue I believe), as marking some boundary.

Mr. BOUCHETTE.—It is a line denoting the boundary fixed by the treaty of Utrecht, and is taken also from Emanuel Bowen, and there is also a line in the map taken from Bennett's, being the boundary of the Hudson's Bay territory.

Mr. STUART.—I imagine, Sir, you know nothing of the correctness of any line under the treaty of Utrecht?

Mr. BOUCHETTE.—No, I have read the treaty, that is all.

Mr. STUART.—The same, I presume, with respect to the Hudson's Bay territory?

Mr. BOUCHETTE.—Yes, certainly; I never was there.

ATTORNEY-GENERAL.—I really do not see what we have to do with the Hudson's Bay territory, or Mr. Bouchette's knowledge of it.

Mr. STUART.—It may probably appear very immaterial to my learned friend, the Attorney-General, but it is very material to us.

[The map was here handed to the Court.]

Mr. Justice BOWEN.—From what geographer is the south boundary of the Hudson's Bay taken?

Mr. BOUCHETTE.—From Emanuel Bowen.

Chief Justice SEWELL.—I thought, and you certainly did say just now, that that line was copied from Bennett.

Mr. BOUCHETTE.—No Sir, the line from Bennett is the line running from St. Croix river to the highlands, and thence along them.

Chief Justice SEWELL.—Here is a line on 49° latitude.

Mr. BOUCHETTE.—That is from Emanuel Bowen also, and drawn by the Commissioners, under the treaty of Utrecht, and the line coloured violet, is the southern limit of the territory of Hudson's Bay, according to Emanuel Bowen's map.

WM. BACHELOR COLTMAN, ESQ., Sworn:

ATTORNEY-GENERAL.—Are you, Sir, a magistrate for the Indian territories, as well as for this district?

Mr. COLTMAN.—I am a magistrate for this district, and a Commissioner in the Indian territory.

Mr. JUSTICE BOWEN.—Let the examination be in French if you please.\*

ATTORNEY-GENERAL.—Have you been in the Indian territory, and when?

Mr. COLTMAN.—I have been in the Indian territories; I was there last year.

ATTORNEY-GENERAL.—What do you consider the most north-west point of the Lake of the Woods?

Mr. COLTMAN.—My mind being much occupied by the business of my mission, I did not make any particular local observations, but I always understood, and I myself consider, the Portage des Rats to be the most north-western part of the Lake of the Woods, and that also according to what I observed; but I had no opportunity of making exact observations on the spot.

ATTORNEY-GENERAL.—You have, no doubt, a knowledge of the River Winnipic. Does it run out of the Lake of the Woods, or into it?

Mr. COLTMAN.—It is true that the River Winnipic runs out of the Lake of the Woods, and into Lake Winnipic.

ATTORNEY-GENERAL.—What is the distance between them?

Mr. COLTMAN.—I cannot say exactly.

\* This was done, but it has been thought sufficient throughout this trial to print here the English translation.



ATTORNEY-GENERAL.—Not exactly : but how many leagues do you think ; twenty or thirty ?

Mr. COLTMAN.—I think about one hundred leagues ; probably from eighty to a hundred leagues.

ATTORNEY-GENERAL.—What is the general course of the River Winnipic ?

Mr. COLTMAN.—The general course of the River Winnipic is northwest, or about that course ; but it is necessary that I should repeat, that I had no time to make particular observations.

ATTORNEY-GENERAL.—Is any part south of a line drawn due west from the north-west angle of the Lake of the Woods ?

Mr. COLTMAN.—I think assuredly not. I do not believe that any part of the River Winnipic would be to the south of a line running west from the most north-western point of the Lake of the Woods, or at most a very small portion.

ATTORNEY-GENERAL.—It is hardly necessary to ask you if a line drawn from that point to the Mississippi would leave any part of the Winnipic to the south ?

Mr. COLTMAN.—Without doubt it would not. It is more to the south, and a line running from the Lake of the Woods to the River Mississippi will leave the whole of the River Winnipic to the north-west of such a line.

Chief Justice SEWELL.—Such a line must necessarily run almost due south.

ATTORNEY-GENERAL.—Do you know a place called the Dalles ?

Mr. COLTMAN.—I do know a place called the Dalles : I passed it twice.

Chief Justice SEWELL.—Are the Dalles upon the River Winnipic ?

Mr. COLTMAN.—The spot called the Dalles is a part of that river.

ATTORNEY-GENERAL.—At what distance are the Dalles from the Portage des Rats ?

Mr. COLTMAN.—I cannot say with accuracy, being always accustomed to read whilst travelling in a canoe in the Indian countries ; but the places are not very near to each other ; they are, I should think, at the distance of two or three hours march.

ATTORNEY-GENERAL.—At what rate, sir, do you generally travel in the canoes ?

Mr. COLTMAN.—We go just according to the currents we meet with. Our progress is entirely regulated by them, but perhaps generally a league and a half or two leagues per hour.

Chief Justice SEWELL.—Then it is perhaps about fourteen miles ?

Mr. COLTMAN.—I should think it more ; I should imagine it to be about five or six leagues from Portage des Rats.

Mr. Justice BOWEN.—To the north, sir, of Portage des Rats and Lac des Bois ?

Mr. COLTMAN.—It is by a line running to the north with a little westing, and they are distant from five to six leagues, I believe, from Portage des Rats and the Lake of the Woods.

ATTORNEY-GENERAL.—Are you, sir, acquainted with the place where Owen Keveny was killed, or said to be killed ?

Mr. STUART.—I object to that question being put, for, if answered, it could not be made evidence. The place must have a name, and must be identified before any question can be put relative to anything whatever that may be supposed to have occurred there.

Chief Justice SEWELL.—It can be a matter of no consequence to put the question ; we know enough of this case to know that if the murder was committed at all, it was committed at the Dalles, or very near to them ; but you must first establish the fact.

ATTORNEY-GENERAL.—For the present I have done with Mr. Coltman, reserving to myself the right hereafter, should it be necessary, to examine Mr. Coltman again.

Chief Justice SEWELL.—Certainly, Mr. Attorney-General.

*Cross-examined by Mr. Stuart.*

Mr. STUART.—You speak, I think you have said, Mr. Coltman, about the boundaries, and other places you have mentioned in your examination in chief, only from belief ?

Mr. COLTMAN.—I speak about the lines and other places, only from belief.

Chief Justice SEWELL.—But from having been there also ?

Mr. STUART.—Yes, your honour, but Mr. Coltman adds to his having been there, from belief only. Will you give your former answer to the jury, in French, Sir ?

Mr. COLTMAN.—I speak only according to my belief, being generally engaged in reading whilst travelling in those parts, and I had not an opportunity of making particular observations in the localities of the River Winnipic.

Mr. STUART.—Am I to understand you as speaking in the same way, when you say that the Portage des Rats is the most north-western point of the Lake of the Woods?

Mr. COLTMAN.—Yes. I speak according to the same belief, a belief likewise founded upon this circumstance. I was told that it was the most north-western point, and when I passed it, I saw nothing that could make me call this in doubt. I was informed that that was the point whence the boundary line ran between the United States of America and the English, agreeably to the treaty of 1783.

Mr. STUART.—Can you say, Sir, where it was you were told this, or at what time, whether before or after passing it?

Mr. COLTMAN.—I cannot say, but it was on the passage, or during the time I was in the upper country, that I was informed it was the most north-western point of the Lake of the Woods.

Mr. STUART.—You made no astronomical observations, or any other, so as accurately to ascertain the latitudes and longitudes?

Mr. COLTMAN.—None whatever; my only observations were those of the eye, in passing accidental remarks.

Chief Justice SEWELL.—Then I will add, Sir, “according to my observations, or remarks made in passing.”

Mr. STUART.—Your honour will remark that my question was not only whether Mr. Coltman made any astronomical observations on the places, but also whether they came under his eye in such a manner as accurately to observe these two places, and Mr. Coltman's answer is in the negative—they did not.

Chief Justice SEWELL.—You spoke of Portage des Rats.

Mr. STUART.—I spoke, or intended to speak of both places, your honour, and Mr. Coltman's answer referred to both. Is not Fort William, Sir, reputed generally to be in the Province of Upper Canada?

Mr. COLTMAN.—Yes; Fort William is usually considered to be in the Province of Upper Canada, and I understand it to be so.

SOLICITOR-GENERAL.—I submit to your honour, that there is nothing in this case to which this can apply.

Mr. STUART.—We are not called upon at present to show its application; it is a fact, and therefore evidence.

SOLICITOR-GENERAL.—But I contend that my learned friend, Mr. Stuart, ought to show how he intends to apply evidence, which *primâ facie* has no bearing on the case, before he is entitled to proceed in such a course of examination; I therefore thought it right to check it in the commencement.

Chief Justice SEWELL.—All that Mr. Stuart has obtained, is the naked fact that Fort William is, according to general repute, in Upper Canada. Whether any or what use he may propose to make of it, we cannot say; as a fact it is evidence.

Mr. STUART.—Do not writs issue in the western district of Upper Canada on that presumption?

Mr. COLTMAN.—The Chief Justice of Upper Canada told me—

SOLICITOR-GENERAL.—You must not tell us that, Mr. Coltman.

Mr. STUART.—I will ask you, Sir, is it not a matter of *public notoriety*, that the processes of the magistrates of the western district, are issued for offences at Fort William, and executed there?

Mr. COLTMAN.—Yes: it is a matter of notoriety that writs are issued by the magistrates of the western district of Upper Canada, to be executed at Fort William.

Mr. STUART.—You have traversed a good deal, Sir, in that country; did you observe any vestiges of French Forts above Fort William in your way to Red River?

Mr. COLTMAN.—I do not recollect that I did; I do not think I did.

Chief Justice SEWELL.—Is it worth while to take that?

Mr. STUART.—No, it is not necessary. I have done with Mr. Coltman at present; we propose to examine him on the defence.



SAMUEL GALE, ESQ., Sworn :

ATTORNEY-GENERAL.—You have been in the Indian territory, I believe, Sir ?

Mr. GALE.—I was in the Indian territory last summer.

ATTORNEY-GENERAL.—Did you go down the River Winnipic ?

Mr. GALE.—Yes, I went down the River Winnipic, from the Lake of the Woods, to within Lake Winnipic.

ATTORNEY-GENERAL.—Do you know the Portage des Rats ?

Mr. GALE.—I do know Portage des Rats.

ATTORNEY-GENERAL.—What course has the River Winnipic from Portage des Rats to Lake Winnipic ?

Mr. GALE.—Its course from Portage des Rats to Lake Winnipic is the same as before, north of north-west.

Chief Justice SEWELL.—North, tending a little west.

Mr. GALE.—Yes ; nevertheless, less to the west than to the north.

ATTORNEY-GENERAL.—Then the whole is north ; is it not ?

Mr. GALE.—I should not like to speak positively, but I believe that a line drawn from the source (beginning) of the River Winnipic in Lake Winnipic, would be to the north of north-west, but, as a lawyer, I would not say that such a line was a north line.

Chief Justice SEWELL.—From what we have heard this morning, I should think it would puzzle a dozen lawyers to describe a line.

ATTORNEY-GENERAL.—Are you, Sir, acquainted with the Hudson's Bay territory, and its line of separation from the Province of Upper Canada, by maps or any other way ?

Mr. GALE.—I have never seen a map in which they were correctly delineated, according to my idea.

ATTORNEY-GENERAL.—By the treaty of Utrecht, was not the boundary established ?

Mr. GALE.—I know that by the treaty of Utrecht no line was given, nor any boundary fixed as to the Hudson's Bay territory south, or on the side of Upper Canada. I have examined that treaty for the purpose of ascertaining. I do not know that any line has been drawn between the territories of Hudson's Bay and Canada in pursuance of the treaty of Utrecht, and that treaty did not describe a boundary line.

Cross-examination by Mr. STEWART.—Do you mean, Sir, to say positively that no part of the River Winnipic is in a more southern latitude than Portage des Rats ?

Mr. GALE.—I, perhaps, do not know precisely where it commences. I considered that I entered it at Portage des Rats, and I do not think that any part is more south, but it may perhaps begin a mile or two before.

Mr. STUART.—Will you undertake to say positively one way or the other ?

Mr. GALE.—I should not like to be positive, but I will mention why I think I am correct as to its course. [Intimated to speak French.] I had a small compass before me, and I observed that the general course of the River Winnipic is, as I have said, for a short distance ; the course is more north afterwards.

Chief Justice SEWELL.—For what distance, Sir, does its progress preserve the more northerly course ?

Mr. GALE.—Perhaps about ten or twelve leagues from the Portage des Rats. The whole course of the river is certainly not due north, but if a line was drawn from its commencement at the one lake to its discharging itself into the other, the course of the river would certainly be more north than any other.

#### THE QUESTION OF JURISDICTION.

The following was the argument on the point on a subsequent day :—

Mr. STUART.—In excepting to the jurisdiction of the Court, I beg leave to remark, that the exception is made as an exception by the counsel of the prisoner only. Our opposition does not arise from any apprehension as to the verdict of the jury ultimately being that De Reinhard is innocent ; but we are counsel for the prisoner, and your honours know that even of technical objections, where the life of a defendant is at stake, it is the duty of his counsel to avail themselves ; and, although they entertain no doubt of the acquittal of the prisoner, in the duty which, as his legal advisers, we have to perform, and a trying and distressing duty it is, we feel ourselves compelled to neglect nothing that, by possibility, can lead to his acquittal ; we therefore except to the jurisdiction of the Court ;

and as I shall have the honour of being followed by a learned friend with me, who has besetwined considerable time and attention to the subject, I shall trouble the Court very shortly in opening, as I shall have an opportunity of again addressing the Court in reply to the Crown officers. The first objection I shall have the honour to submit is, that the offence charged in the indictment, if committed at all, was not committed in the Indian territory as alleged, but in His Majesty's province of Upper Canada.

Chief Justice SEWELL.—Will you stay one moment. If I understand you correctly, it is a geographical objection you make. You argue that the spot, "*en haut des Dalles*," is not in the Indian territory, but in the province of Upper Canada?

Mr. STUART.—That is my proposition, and in support of it, I proceed to remark that the first enactment relative to the management of this portion of His Majesty's dominions took place in 1763. It is known to all of us, that the conquest of this portion of North America by the British arms took place in 1759 and 1760, but from that period to 1763, nothing was done to provide a government for, or to regulate, this conquered country. In that year (1763) a Province called Quebec was created by proclamation. The affairs of this territory, notwithstanding the proclamation of 1763, remained in a very unsettled state till the year 1783, when the whole of the country called Canada was ceded to the English, who have retained possession ever since. According to the most respectable historians, we contend, that the portion of country thus ceded was exceedingly extensive, going, agreeably to some writers, as far as the river Ohio. The pretensions of the French, as we gather from history, carried them into countries distant, remote, and in fact unconnected altogether with the Province created in 1763. The people of Montreal and Quebec, we shall show, had long traded in those wilds, which are now so fancifully called the Hudson's Bay Territory, and from which, after an uninterrupted enjoyment of traffic for ages by the French traders, it is now sought to exclude enterprise and competition. It must be apparent to every one, that after the conquest, this immense tract of country required a government adapted to the change which had taken place in its circumstances by becoming a Province of another nation. Its remote situation from the parent state, rendered it impossible as well as unadvisable, to legislate hastily for its necessities, but the parliament proceeded to provide what it stood most in need of. Accordingly, by the 14th of the King, the Province of Quebec was enlarged, and here let me remark that a great deal of the misapprehension which exists on the subject, arises from confounding the Province of Quebec as thus erected and enlarged, with what, under the French régime, was denominated Canada. This Act merely provided a government for a portion of the conquered country, as will immediately appear on referring to history. Adverting to the 14th of the King, the Act of 1774, it will be seen that the country, erected and enlarged thereby into the Province of Quebec, was not commensurate to the country known by the name of Canada as a French colony, and recognized as such by the French and British governments. The object of this legislative provision was to provide a government for that portion of His Majesty's Province whose necessities required it. It was to establish a temporary government for a portion of an immense continent larger than England herself, that this Act of the British Parliament provided. As settlers pushed themselves into the settlements of Upper Canada, as civilization extended its stride, it became necessary to adopt a government for the whole, and the interval from 1774 to 1791 afforded time to maturely form a suitable government for the immense territory known as Old Canada.

Chief Justice SEWELL.—You are making a small mistake; it was not to provide a government for old Canada that the Act of 1791 provided, but for the new Province of Quebec.

Mr. STUART.—I know the Act of 1791 mentions the Province of Quebec, and it speaks also of Canada. The proclamation issued in consequence of this Act, I contend, must be construed liberally. It must be looked at, not as a deed of property, in which only a minute survey can be taken; we must not look at it, like lawyers, in our study; we must not contemplate it as the act of an attorney surrounded by his musty papers and parchments; but we must view it as the act of great and enlightened statesmen legislating for the population of an immense and distant territory, with whose wants they were acquainted, and whose affections they were desirous of securing by liberal and magnanimous policy. But even looking into this proclamation strictly and minutely, we shall find this



country, where it is alleged the offence was committed, to be strictly and minutely the Province of Upper Canada, agreeably to the Act of 1791, upon which the proclamation was grounded. This Act, in providing for the more suitable government of the province, created by the former one of 1774, divided it into two parts, and we think, even in a strict construction of the provisions of that statute, and the proclamation issued in consequence of it, that, if this offence had been committed at all, it had been committed in the Province of Upper Canada, and consequently beyond the jurisdiction of this Court. But let us look into this Act and proclamation with a broad, liberal, and enlarged disposition, and we must arrive at the same conclusion, that, agreeably to this Act, this country must form a part of the Province of Upper Canada. I am well aware that in the preamble to this Act the Province of Quebec is adverted to, but the preambles of Acts of Parliament are never looked at as explaining the design of the Legislature, except doubt arises in the construction of the enacting clauses. It is almost superfluous to remark that, for ascertaining the spirit of an Act of Parliament, we must refer to its enacting clauses; if they are clear, there is no necessity for reference to the preamble, which is but an introduction—a sort of preface, setting forth the necessity for legislative provision on the subject of the Act, but not making the provision. On the other hand, I freely admit, if the words of the Act are uncertain, if different constructions may be put on the enacting sections, then we ought to go back to the preamble for the intention of the Legislature; but that should never be done except doubt and uncertainty prevail in the body of the Act. Adopting this sound principle, let us take up the Act we are at this moment considering, and we shall find it so clear that misunderstanding cannot exist for a moment. In the proclamation issued in consequence of the 31st of the King, cap. 31, we find the boundaries of His Majesty's Province of Upper Canada thus set forth: After a short introduction, stating that His Majesty had thought fit, by and with the advice of his Privy Council, by an Order of Council to divide his Province of Quebec into two distinct provinces, to be called the Province of Upper Canada, and the Province of Lower Canada, by separating the said line of Provinces, according to the following decision, viz: "To commence "at a stone boundary on the north bank of Lake St. Francis, at the cove west of Point "aux Bodet, in the limit between the Township of Lancaster and the seigneurie of New "Longueuil, running along the said limit in the direction of north thirty-four degrees, "west to the westernmost angle of the said seigneurie of New Longueuil, thence along the "north-western boundary of the seigneurie of Vaudreuil, running north, twenty-five "degrees east, until it strikes the Ottawa river, to ascend the said river into the lake "Temiscaming, and from the head of the said lake, by a line drawn due north, until it "strikes the boundary line of Hudson's Bay, including all the territory to the westward "and southward of the said line to the utmost extent of the country commonly called or "known by the name of Canada."

Now, what was the utmost extent of the country commonly called or known by the name of Canada, we all know. It is that territory conquered by British arms in 1759, and ceded finally in 1763 to the British Crown; it was Canada, recognized as such in treaties of peace, and other most important documents entered into between France and England. That is Canada, the whole of which, after the Act of the thirty-first of the King, by the advice of his Privy Council, His Majesty declared it his royal will and pleasure, should form the Province of Upper Canada, with the exception of the comparatively small part situated to the north and east of those boundaries, which constitutes the Province of Lower Canada. The Province of Quebec was quite another thing, and could not have been meant as designating the boundaries of Upper Canada. If that had been intended to form its limits, that is, the limits of the new province, the course was simple and easy: it was to have said, the utmost extent of country commonly known as His Majesty's province of Quebec; but that is not the case; the boon was not so circumscribed. Let us now, for a moment, examine the fact strictly and minutely, according to rigorous municipal principles, and we shall, I think, arrive at a similar result. His Majesty's Province of Quebec was always defined, whereas Canada was more undefined. Had the Province of Quebec been intended as exhibiting the proposed boundaries of the about to be created province, a word could have sufficed to express His Majesty's pleasure. It would merely have been necessary to have referred to the royal proclamation of 1763, founded on the treaty of Paris, in conjunction

with the Act of 1774, and we should immediately have known the extent of Upper Canada; but it is manifest that such was not the intention, but that instead of the then Province of Quebec, as established by the Act of 1774, it was intended, as clearly expressed in the proclamation issued in consequence of the 31st of the King—the Act by which it was constituted a Province—that Upper Canada was to include “all the territory to the westward and southward of the said line” (the line of its boundaries), “to the utmost extent of the country commonly called or known by the name of Canada.” I am fully aware that I may be told that in the preamble of this Act and of the proclamation, the term “his Majesty’s Province of Quebec” is made use of. It is almost unnecessary for me again to remark that the preambles of Acts of Parliament, are, in general, loosely and vaguely drawn up, and ought to form no criterion by which to estimate the objects contemplated by the Acts themselves. That this is the case is known to every lawyer and every legislature. It is to the enacting clauses of any statute that we must refer to ascertain with accuracy the provisions of the Act. Adopting this certain rule for our guide here, we have a clear manifestation of the intention of Parliament in the Act of 1791; it was to create two Provinces of Canada, and, in defining the limits of the Upper, it declares that it shall, in a certain direction, include “the utmost extent of country commonly called what? the Province of Quebec? no; it shall include “the utmost extent of country commonly called and known by the name of Canada;” the utmost extent of that country which, as I have before remarked, was the conquest of British valour in 1759, by force of arms, and which was finally ceded to Britain by the Treaty of Paris, of 1763; of that immense territory which has never, by any treaty, been surrendered, which as it is, and has, from the time of its discovery, as well as its cession, been known as Canada, must be the territory which was intended by this municipal enactment to form the Province of Upper Canada. That being the case (and I think it is the only construction, even in a minute point of view, that can with propriety be given to the statute), we find that the Dalles are strictly within the Province of Upper Canada, consequently out of the jurisdiction of this Court, and the offence charged, if committed at all, is not cognizable under the Act upon which the indictment is founded.

I come now to the more broad and liberal interpretation of the Act, and I shall, as I apprehend, have no difficulty in showing that we can not arrive at any other conclusion. The 14th of the King was evidently intended to provide a temporary government for that part of the newly-acquired territory, which stood most in need of it. It was passed at a season of great difficulty, when anxiety and alarm pervaded all classes of society in England relative to the issue of the disputes between the parent state and those of the colonies which she has since acknowledged as the United States of America. At a period when the intercourse between the Province and the mother country was so limited that it could hardly be said to belong to it, such was the moment in which the Act erecting the Province of Quebec was passed—an Act whose temporary nature may be clearly deduced upon a single reference thereto. This Province was to subsist only, by the Act of 1774, till the King should see fit to alter its limits. In 1791, the situation of affairs relative to this portion of the British possessions was widely different, and the British parliament proceeded to form a people whose loyalty during a contest which had served such numerous colonies from the Dominion of Britain, had well entitled them to be distinguished, and distinguishing privileges secured to them by the munificent Act of 1791. Refer to the Acts of 1774 and of 1791, and, surveying the difference, is it possible for a moment to imagine that the government of 1791, intended only to legislate for a part of Canada? Is it, I would ask, reasonable to consider that the Minister of a great nation such as England, contemplating an extensive and valuable, though distant territory, belonging alike by conquest and affection to the mother country, and entitled to protection in time of war from its superior strength, in time of peace from its extensive and unequalled trade. Entitled to receive, and have secured to it the due administration of justice and the unrestricted enjoyment of religious freedom? Is it, I ask, reasonable to suppose that from 1763 to 1791, the great men who presided over the Councils of Britain, intended at that period to propose a government for a part of Canada? To suppose so is to suppose they were sleeping at their post. Can it, I ask, be imagined that a Minister could be found so regardless of his duty, so ignorant of the necessities, so insensible to the loyalty, of this country, or so negligent to the interests of his master as, in 1791, to propose a government to part of Canada? We cannot suppose it; they have not so neglected us. They have given us a



government, and a constitution, superior to any on earth, excepting their own, after which it was modelled ; a government, suited to our necessities and gained by our unshaken and persevering loyalty, when revolution tore our sister provinces from their allegiance, and strove to associate us in the revolt. I ask them, is it for a moment to be believed, that such magnanimity would be tarnished by these advantages being confirmed to only a part of a people of the same blood, equally brave, loyal, and grateful, and equally standing in need of, and equally entitled to all, these privileges ? If any should be found disposed to support by argument a contrary opinion, they ought to be confident, before they make so heavy a charge as is involved therein, that they can substantiate it beyond the power of contradiction. But there is no occasion to apprehend such an argument, for the proclamation is clear as the noon-day sun upon the subject. It tells us that the Act of 1791 has provided a liberal, and equitable, and a permanent Government for the brave, the loyal, and grateful population of an extensive tract of country, within certain latitudes and longitudes, "including all the territory to the westward and southward of a line drawn due north from the head of the Lake Temescaming until it strikes the boundary of Hudson's Bay, to the utmost extent of the country commonly called or known by the name of Canada." What that country consisted in I have had the honour of submitting to the Court, in the early part of the argument I have had the honour of addressing to the Court. In conclusion, I contend on this part or view of the subject, namely, the broad and liberal construction of the Act of 1791, that by Canada must be meant Canada as known to the French, from whom it was taken, and who in ceding this part of North America to the British Crown in 1763, actually as a part of Canada ceded the Dalles. Reverting to the whole question, I contend that, whether the Act of 1791 is construed according to strict, rigid, municipal rules, or contemplated with a broad, liberal, and statesman-like spirit, the Dalles form a part of His Majesty's Province of Upper Canada, and if the offence has been committed at all, it has been committed out of the jurisdiction of this Court.

MR. VALIÈRE DE ST. RÉAL — May it please the Court ; I have the honour to submit that it appears to me that the statute of the fourteenth of the King (upon which the Crown officers rely) must instantly strike the reader as being a temporary Act, and that it never was intended to be a permanent one. It is true that the boundaries were given by this Act to the old Province of Quebec, but these boundaries were only to remain during the King's pleasure, and his will is clearly made known by the act of 1791. But the principal objection which my learned brethren the counsel for the Crown make to our construction of that Act is this, that in the preamble or title to it, the Province of Quebec is mentioned. But it was well remarked by my learned brother Stuart, that the preamble of an Act is nothing, that it is like the preface of a book, but that we must look at the enacting clauses to discover its spirit. We know that it is necessary in the preamble of one Act to recite the title of the old Act which is amended, and it is perhaps to that circumstance that may be ascribed the introduction of the words, "the Province of Quebec," in the Act of 1791. But that does not signify ; it is impossible to consider the proclamation of the king, or his order in council, otherwise than as giving to the Province of Upper Canada, "All the country to the west of a line drawn due north, from the head of Lake Temiscaming to the boundary of Hudson's Bay, which was known as Canada." Let us look at the boundaries and we shall see that the boundary line between the Provinces is this, namely, from "a stone boundary on the north bank of the Lake St. Francis, at the Cove West of Pointe au Bodet, in the limit between the Township of Lancaster and the seigniory of New Longueuil, running along the said limit in the direction of north thirty-four degrees west, to the westernmost angle of the said seigniory of New Longueuil, thence along the north-western boundary of the seigniory of Vaudreuil, running north twenty-five degrees east, until it strikes the Ottawas River, to ascend the said River into the Lake Temiscaming, and from the head of the said Lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada." I beg to remark that these limits are very well known, and also that they were well known before the proclamation. My learned brother, Stuart, has well explained the extent of these limits, and he has not taken too wide a purview of them. The words of the proclamation are very remarkable. After having described the lines which

separated the Province of Upper Canada from the Province of Lower Canada, it adds, "including" (a very remarkable expression) "including all the territory to the west and south of the said line," (the line drawn due north from the head of Lake Temiscaming until it strikes the boundary of Hudson's Bay), "to the utmost extent of the country commonly called or known by the name of Canada." Let us consider these words, "the utmost extent of the country commonly called or known by the name of Canada." The words are not "of the country commonly called or known by the name of the Province of Quebec;" no, not at all; but they say: "by the name of Canada." The question therefore is, what is the utmost extent of the country known as Canada? The Abbé Raynal in his "History of the Indies," speaking of this country, vol. 8, book 17, page 238, says, "the year 1764 beheld the rise of a new system. Canada was dismembered of the coast of Labrador, which was added to Newfoundland; of Lake Champlain and the whole tract of land to the south of the 45° of latitude with which New York was augmented; of the immense territory to the westward of Fort Golette and of Lake Nipissim, which was left without a government; and the remainder, under the designation of the Province of Quebec, was placed under one governor." The description which this respectable historian here gives of the territory thus dismembered gives a correct idea of the country known as Canada. This new system, he says, gave a part of Canada to Newfoundland. New York was increased by another part, namely, the tract to the southward of the 45° of latitude. "The immense territory to the west of Fort Golette and of Lake Nipissim was left without any government," (and as my learned brother Stuart has well maintained, it is this immense territory which the proclamation of the year 1791 gave to Upper Canada, as being a part of the country called or known by the name of Canada) "whilst the remainder" (to wit, of the country known by the name of Canada) "was placed, under the designation of the Province of Quebec, under one governor." I have the honour to submit to your honours, that looking at the words of the proclamation of 1791, and comparing them with this description of the Abbé Raynal, of the territory left without any government, we shall find it to be the country which, by this proclamation, it was proposed to make a part of Upper Canada, at the time when it was declared that the line should be "drawn from the head of the Lake Temiscaming due north until it strikes the boundary line of Hudson's Bay." And moreover, "including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada." This territory was then known by the name of Canada, and it is situated to the westward of that line, and therefore it proves to be a part of Upper Canada. Again I beg the attention of the Court to the work of Mr. Pinkerton, a well-known English Geographer, This distinguished author, speaking of the extent of Canada, gives very large bounds to it; vol. 3rd, page 234, he says: "This country" (Canada) "is computed to extend from the Gulf of St. Lawrence and Isle of Anticosti, in the east, to the Lake of Winnipic in the west, or from longitude 64° to 97° west from London; 33°, which, in that latitude, may be about 1,200 geographical miles. The breadth from the Lake of Erie in the south or latitude 43°, may extend to latitude 49°, or 360 geographical miles, but the medial breadth is not above 200." So far he speaks of the absolute geographical extent of Canada; the subsequent observation which he makes relative to the original population of the country, strongly supports the argument which we have the honour to submit to the Court, viz. :—that this country, described by the Abbé Raynal as "l'immense territoire qui fut laissé sans aucun gouvernement," is the very country intended by the Proclamation of 1791, to receive a government and become a part of Upper Canada. "The original population," (says Mr. Pinkerton,) "consisted of several savage tribes, whose names and manners may be traced in the early French accounts, which may also be consulted for the progressive discovery, the first settlement being in Quebec in 1608. During a century and a half that the French possessed Canada, they made many discoveries towards the west, and Lahontan, in the end of the 17th century, has given a tolerable account of some lakes beyond that called Superior, and of the River Missouri. Quebec being conquered by Wolfe in 1759, Canada was ceded to Great Britain by the Treaty of Paris in 1763." I therefore confidently submit that this western territory, which had been discovered by the French, and is described by Lahontan and other writers under the name of Canada, became in reality a part of Upper Canada by the proclamation of 1791, and consequently does not form a part of the Indian territory, nor is it within the jurisdiction of this Court. The



Abbé Raynal and Mr. Pinkerton agree in their description of the western boundary of Canada, and for the southern boundary of Canada let us again look at the Abbé Raynal's work. This writer, in the same volume of his "History of the Indies," treating of the extent, soil and climate of Louisiana, says (book xvi., page 111):—"Louisiana is a vast country, bounded on the south by the sea, on the east by Florida and Carolina, on the west by New Mexico, and on the north by Canada, and by unknown lands which may extend to Hudson's Bay. It is not possible to fix its length with precision, but its medium breadth is 200 leagues." Here we see that the northern limit of Louisiana is Canada and unknown lands, which may extend to Hudson's Bay. With the proclamation of 1791 before our eyes, which tells us that the boundaries of Upper Canada include the whole of the country to the west and south known under the name of Canada to the utmost extent of that country, it is impossible to say but that that country which bounds Louisiana to the northward according to the Abbé Raynal, must at this moment form, in conformity with that proclamation, a part of Upper Canada. The country known as Canada extends to the south as far as Louisiana, and to the west as far as the 97° of longitude. There remains now for us to consider the northern limits of Canada, and here we have not the same certainty. In the maps of New France, it is true that the whole of the river Winnipic is included in it, and the northern boundary line is drawn in conformity with the interpretation of the limits of Canada, which we have submitted to the Court. To prove that this interpretation is a correct one, and that it in effect agrees with the limits of Canada as they were known to the French Government, I will take the liberty of praying the attention of the Court to what we look upon as a very strong authority. It is an Act of the Duke of Ventadour, dated in 1625, and will be found in the "Edicts and Ordinances," Vol. 2, page 11, under the title of "Commission of Commandant in New France, of the 15th February, 1625, by his grace the Duke of Ventadour, who was Viceroy of the country, in favour of the Sieur de Champlain." This instrument begins by reciting other patents of Commission obtained by him, and proceeds in the 12th page, to declare in the most precise manner, the view taken by the Government of France, of the extent of this part of their possessions. This instrument will support the position that the territory which the French knew as being called by the name of Canada, to the south and west of the line so frequently mentioned in the course of my speech, proves to be ordered, by the King's proclamation of 1791, to make, and that it will be found actually to make, part of his Province of Upper Canada "as far as the utmost extent of that country." Let us look at this Act, and we shall perceive from it, that the most extended powers were given to the Sieur De Champlain, powers which it must also be maintained did not at the time awaken any doubts as to the right which France had to grant them, nor any impediment to their exercise, on the part of any other nation. This Commission, in the first place, ordains and deposes, "the Sieur De Champlain, our Lieutenant, to represent our person in the country of New France, and to that effect, we have ordered him to go and reside with all his people at the place called Quebec, being within the river St. Lawrence, otherwise called the great river of Canada, in the said country of New France." Now, we will look at the powers which were granted by this Commission: "and in the said place, and in other places which the said Sieur De Champlain may think fit, to cause to be erected, and built such forts and fortresses as may be wanted, and necessary to him for the preservation of his people, which fort or forts he shall keep for us in his power, in order that the said place of Quebec, and other places and stations within the extent of our said power (vice-royalty), as much and as far as may be, to establish, extend and make known the name, power and authority of His Majesty, and in the premises to conquer, subject, and bring to obedience all the people of the said country, and of the circumjacent countries, and by means thereof, and of other lawful means, to call them, cause them to be instructed, excited, and moved towards the knowledge and service of God, and of the Catholic, Apostolic, and Roman religion; to establish it there, and in the exercise and profession thereof to maintain, guard, and keep the said places under the obedience and authority of his said Majesty; and in order to have regard thereunto, and more surely to fulfil the same, we have in virtue of our said authority (vice-regal) permitted to the said Sieur De Champlain, to commission, appoint, and substitute such captains and lieutenants for us as need may be, and in the like manner to commission officers for the distribution of justice, and the observance of the police regulations and

ordinances, until by us otherwise may be provided, to treat for and contract, to the same effect, peace, alliances, confederations, good friendship, correspondence and communication with the said people and their princes or others having the command over them; to maintain, observe and carefully keep the treaties and alliances which he may enter into with them, provided that they fulfil the same on their parts, and in default thereof to make open war upon them to constrain them, and bring them to such terms as he shall deem requisite for the honour, the obedience and the service of God, and the establishment, maintenance and preservation of the authority of His said Majesty amongst them; at least to reside amongst, haunt, and frequent them, in all safety, freedom, frequentation, communication, to trade and traffic amicably and peaceably, for that purpose to cause to be made discoveries in the said countries, and specially for the said place of Quebec, until as far as he may be able to penetrate beyond the same, within the lands and rivers which discharge themselves into the River St. Lawrence, in order to endeavour to discover a convenient way to go through the said country unto the Kingdom of China and the East Indies." Here, may it please your honours, we behold powers the most extensive, granted by the Government of France for all the objects which might require attention, to make peace and war; to spread the name, power and authority of the King of France over a country, the bounds of which were not exactly known to themselves; to establish religion; to commission and in the like manner establish military and civil officers; to treat for and contract peace, alliances, and good friendship with other nations and their princes, and on their being in default thereof, to wage open war against them. In fine, powers are granted by this Commission which would not have been granted unless by a government which, by the law of nations, was entitled to grant them. These powers extend over all the lands and rivers which discharge themselves into the River St. Lawrence; assuredly the river Winnipic does not discharge itself into that river, but by the old maps that river (Winnipic) is situated within the country known to the French as Canada. After this proof of what was at the time considered as the territories of France by herself, it is only necessary to enquire whether the possession thereof was actually held by that kingdom. The species of possession, which the law of nations admits as a proof of actual sovereignty, will equally appear to be maintained. We see that by this commission power is given to cause to be erected and built such forts and fortresses as may be wanting and necessary to him, the Sieur de Champlain; now forts and fortresses were erected, and to this day there are ruins of French forts remaining in that country which incontestibly prove actual possession. We therefore now take up this position; that, neither at the time of the actual possession of the country by the French, nor since its conquest by the English, have the boundaries of Canada been actually defined. In support of this position, which is especially true as regards the northern limits, I submit that Charlevoix, the Abbé Raynal, Mr. Pinkerton, and all authors agree in representing that the boundaries of Canada under the French *régime* were not positively fixed or known. As an authority for saying that they are not fixed even at the present time, I produce the Topography of Mr. Bouchette, the Surveyor-General of this Province, who has bestowed great attention to everything that is interesting on this subject. I flatter myself that his work must be esteemed very strong authority. Mr. Bouchette, speaking of Upper Canada, says, page 590 of his Topography, "on the west and north-west no limits have been assigned to it." I pray the particular attention of the Court to the expression "no limits have been assigned to it;" therefore it may be supposed to extend over the vast regions that spread towards the Pacific and the Northern Oceans. The separation between it and the United States is so vague and ill-defined, and the prolific source of so many disagreements between the two powers, that it has long called for the revision which is now about to be performed in fulfilment of the fourth and fifth articles of the Treaty of Peace of 1815. Here we have the declaration of the Surveyor General of this Province, that on the west and north-west no limits have been assigned to the country called Canada. Mr. Bouchette speaks of the proclamation of 1791, but this is his opinion. In case there are no precise limits fixed, we must inquire how those who were contemporaries, and who had a knowledge of the country—how the geographers of those days understood the matter. Let us look at the maps and we shall find that the whole of the River Winnipic is delineated as belonging to Canada. When Mr. Bouchette, speaking of this country in his Topography, says that it has no limits assigned to it, and adds, "therefore it may be supposed to extend over the vast regions that spread towards the Pacific and the Northern Oceans," it is very certain, as it appears to me, that he



alludes to the proclamation of 1791, which bestows the whole country, to its utmost extent, commonly called or known by the name of Canada, upon the Province of Upper Canada. The Indian Territories are to the north of a line drawn as above, because the whole of the country to the south and to the west is within Upper Canada. The only point to consider seems to me to be this ; that the proclamation of 1791 did not give the boundary of the Province of Quebec for the limits of the two Provinces, but, that, in the actual words of the proclamation the limits of Upper Canada extend on the one side "from the head of the Lake Temiscaming by a line drawn due north until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line, to the utmost extent of the country commonly called or known by the name of Canada."

By Fort Bourbon and Fort Dauphin, and by many other circumstances, it is also beyond a doubt that the country where the Dalles are situated was in possession of the French, and, as we say, and, as I hope, we have proved by the maps and by enlightened authors (with whom the Surveyor-General of this Province agrees), the country to the southward and westward was called and known by the name of Canada. In conclusion, I say the French knew the country as Canada, and that nothing to the contrary can be brought forward, and, moreover, that if we do not produce positive evidence that the Dalles are within the limits of Upper Canada, we have proved that no fixed limits have been assigned to it, and, by the same authority (an authority well entitled to respect on account of the official situation held by the writer), that it is considered to extend over the vast regions to the west and north. It is for your honours to decide whether the Dalles are within it or not.

ATTORNEY-GENERAL.—The point before the Court appears to me to be so clear that it is almost unnecessary to argue it. A great deal of learning has been produced, and much ingenuity exercised by my learned friends to prove the point with which they set out, viz., that if the offence alleged in the indictment to have been perpetrated, and that by the prisoner at the bar, has been committed at all, it must have been in the Province of Upper Canada, and consequently out of the jurisdiction of this Court. In support of this position a variety of arguments have been resorted to, and numerous authors have been referred to. Fortunately for us, standing in a Court of law, there is positive law upon the subject ; there is, therefore, no occasion to have recourse to the Abbé Raynal, or to Charlevoix, or any other of the speculative writers (at the same time for whom I entertain great respect), to whom my learned friend who last addressed the Court has referred as furnishing authorities upon the question. It is our advantage that in this case, without referring to authors who, however respectable they may be, were exposed to the too common failing of endeavouring to secure the favour of their respective Governments. I do not intend to throw the slightest imputation on the veracity of the very eminent writers whose opinions and arguments have been with so much ability brought forward, but merely to state that reference to them is completely unnecessary, as we have positive Acts of the British Parliament to guide both the examination and decision of the question. But we do not differ at all with our learned friends as to the extent of territory formerly claimed by the French, and which, undoubtedly, came into the possession of the British Crown at the Treaty of Paris of 1763 ; but all we submit to the Court is, that the whole of the French possessions did not constitute Canada, but that the country known by the name of Canada, was much more circumscribed in its extent, than my learned friends have described (and, I doubt not, very accurately too,) the old French possessions to have been. The argument of my learned friend who opened this question is that, in construing this and every other Act of Parliament, we should proceed in a liberal and statesmanlike manner to apply its provisions. If we trace the movements of the British Government, we shall see the impossibility of that construction, which my learned friends contend for, being admitted to be correct. In 1760, these Colonies were conquered, and capitulated to the British forces. By the Treaty of Paris, 1763, the whole conquest was finally ceded to His Majesty. In 1763 a part of this conquest was, by Proclamation, erected into a Province, denominated the Province of Quebec. By the Act of 1774, the Province of Quebec was enlarged. By the Treaty of Peace with the United States of America, the situation and boundaries between the late Colonies and Province of Quebec and other of His Majesty's dominions in North America were clearly defined, and in 1791 this series of legislative and diplomatic measures were completed by His Majesty dividing his then Pro-

vince of Quebec into his two Provinces of Upper and Lower Canada. Let us for a moment look at what the Act of 1791 proposes to effect, and everything like difficulty disappears in a moment. It was to divide a large Province, namely, that of Quebec, into two small ones, to be called Upper and Lower Canada; and consequently the boundaries of these two Provinces could not be commensurate to that of Quebec, and Upper Canada must be a part of the former Province and of that only; otherwise the Act, instead of being an Act to divide the Province of Quebec, ought to have been denominated an Act to enlarge its boundaries, and from its extended limits to form the two Provinces therein created. The error of my learned friend is this: that because Canada happens to be mentioned, therefore the avowed object of the Act, viz. that of dividing the Province of Quebec, must be abandoned, or give place to what my learned friend calls the broad and enlightened policy of providing a government for the whole of His Majesty's dominions in North America. I again take up the Act, and, looking at its title, I find it to be an Act to repeal certain parts of an Act passed in the 14th year of His Majesty's reign, entitled an Act for making more effectual provision for the government of the Province of Quebec in North America. What the Province of Quebec comprehended is as well known as the limits of this room. The Act of the 14th of the King, commonly called the Quebec Act, defines them precisely, and how then did this Act of 1791 amend that of 1774? Why, His Majesty having been pleased to signify by message to both Houses of Parliament his royal intention to divide his Province of Quebec into two Provinces, it was enacted by this statute that it should be so divided, and that two Provinces should be created. If my learned friends' observations are correct, then the 14th of the King amounts to nothing, because though the Act of 1791 is professedly an Act to amend, not to repeal the Act of 1774, still it is indispensable to a correct interpretation of the Act to divide the Province of Quebec (according to my learned friend's doctrine) that you add a very considerable territory to it—a mode of division I confess I am not acquainted with. The Act being to divide the Province of Quebec, I contend that the limits of the two Provinces must be found in those which constitute the Province out of which they were formed, and that whilst on the one hand they must be commensurate to those limits, so on the other they cannot exceed them; that more cannot be included in the two than in the one Province; and, that being the case, the Province of Upper Canada can consist only of that part of the former Province of Quebec which does not form the Province of Lower Canada. This proposition I consider so clear,—that a Province, any more than anything else, cannot comprehend or contain more when divided into two Provinces than it did when a whole,—that I should feel myself very unjustifiably taking up the time of the Court were I to pursue the argument further. If any other construction is to be given to the Act, then the 14th of the King, defining the Province of Quebec, amounts to nothing, and the Act of the 31st, instead of being an Act to divide, is in reality an Act to enlarge the Province of Quebec under the new title of Upper and Lower Canada.

SOLICITOR-GENERAL.—I consider the point so extremely plain, that it is not only wasting, but almost trifling with, the time of the Court, seriously to argue whether the division of a Province into two parts can, by any possibility, be construed to mean the addition thereto of a vast and almost (according as my learned friends contend) immeasurable territory. In support of this apparently most novel and extraordinary proposition, my learned friend Stuart contends that the expression in the designation of the boundaries, "the country commonly called or known by the name of Canada," is conclusive that it was in this manner that His Majesty intended to divide the Province of Quebec. The enquiry, and the only enquiry upon the subject, appears to me to be one extremely easy of decision. It is simply whether that one sentence is to preclude or set aside the whole of the first clause of the Act in which the intention of His Majesty and of Parliament is so clearly expressed. The Act of 1791, after reciting the title of the fourteenth of the King, assigns the reason which induced the Legislature to pass the Act for the internal regulation of the two separate Provinces, which His Majesty had signified his royal intention of forming, by the division of his then Province of Quebec, namely, "that the said Act is, in many respects, inapplicable to the present condition and circumstances of the said Province, and that it was expedient and necessary that further provision should now be made for the good government and prosperity thereof." It is not said that it is necessary or expedient to enlarge the said Province of Quebec, but that further provision should be made for the good government



thereof; of it, as it thus stood, of that Province which had, by proclamation, been created in 1763, and whose limits had been extended to what they then were by the Act of the 14th of the King, commonly called the Quebec Act. My learned friend must most surely be driven to the last stage of despair, when he sets up a loose expression in a declaratory Act which he well knows is the weakest of all Acts of the Crown, in affording a just ground or foundation for such an opinion. I know that it is not to the preamble of an Act of Parliament that we generally most look for a clear exposition of its objects; but, whilst I admit the correctness of that position, I would also remind my learned friend, that there is a wide difference between the enacting and declaratory clauses of a Statute, and that we ought not to set aside the obvious meaning and overturn the avowed intention of an Act of Parliament because of a loose expression in the declaratory clause. I cannot think so meanly of the whole French nation as to suppose they ever claimed these territories and wildernesses, as belonging to or forming a part of Canada. As to the authorities my learned friend who spoke second has advanced, they can not, in a court of law, be styled authorities. I have a very great respect for the Abbé Raynal, but his work is merely speculative and philosophical, and is no geographical authority upon a question of territory; the same remark will apply to Pinkerton,—we all esteem it as a very useful work, but it forms no geographical authority in a Court. Upon the whole, I contend with the Attorney-General that the former Province of Quebec must be found in the Provinces of Upper and Lower Canada, and that no more can be included in them, than what was contained in that Province; for the Act by which they were erected into Provinces was nothing more but an Act to divide it into two parts hereafter to be designated Upper and Lower Canada. Again the learned gentlemen say, that all to the south and west of this line, from Temiscaming Lake to Hudson's Bay, must be esteemed Canada; what then was the use of this Act of the forty-third of the King? The Legislature, if my learned friends' argument was correct, were idly passing an Act that could have no object. Instead of Indian territories it is all Upper Canada, according to my learned friends' statement. But it is a position completely untenable for a moment. Upper Canada extends no farther south and west than the Province of Quebec did, any more than does Lower Canada to the north and east. In the two Provinces are now to be found that which before the separation constituted the Province of Quebec, and Upper Canada consists of that part, and of that part thereof only, which is south and west of the Province of Lower Canada. I refrain from enlarging, confident that, in the view we take of the subject, we are correctly construing the intention of the Legislature, and that we shall have our own opinion strengthened and confirmed by your honours' decision.

Mr. STUART.—I confess I look in vain for those grounds of confidence on which my learned friends rely. If supporting their opinions by confident assertions entitle them to expect the result they anticipate, they have certainly gone a good way towards obtaining it; but I look in vain for anything that can be called argument upon the question that is now before the Court, in the observations that have been submitted by the Officers of the Crown. If there was anything that demanded attention, it was the remark of my learned friend the Solicitor-General, on the Act of the 43rd of the King; but in that the learned gentleman has made a mistake; for if my learned friend referred to the chart he would perceive that nine-tenths of the whole Indian territories, according to the description of them, lie beyond the boundary which we claim as that given to Upper Canada by the Act of 1791. If my learned friend traced the parallel of 52° he would perceive that nearly the whole of the North-West Company's stations and the whole of those of the Hudson's Bay Company are to the north of that line. Then surely it is obvious that this was not an Act without an object. It was an Act to extend the jurisdiction of the Provincial Courts to the trial and punishment of offences committed in the Indian territories, and they are to be found in the immense and almost boundless wilderness to the north and west of the Province of Upper Canada as established by the Act of 1791. The Act of the 14th of the King was obviously temporary; the Proclamation of 1791 defining the boundaries of the two Provinces—and which, I must confess, I was extremely surprised to hear so slightly spoken of by the Crown Officers—was founded upon an Act of a very different description. The former was merely a temporary, whilst this was a permanent, Act.

Mr. Justice BOWEN.—From what part of the Act of 1774 do you conclude that it was

only a temporary Act? I see no part of it that warrants such a conclusion, except with reference to the last clause.

Mr. STUART.—The words there made use of are general, and, as I conceive, must be understood to refer to the whole of the Act. I mean, however, independently, to contend that the time at which that Act was passed, and the situation of England with reference to her American Colonies, concur to show that this Act was merely temporary. But it is needless to refer to the Act of 1774, as it does not bear upon the case, being completely done away by the broad and liberal proclamation of 1791. That proclamation created two Provinces. I am surprised that the Crown Officers should treat so lightly His Majesty's Proclamation; it is certainly not the quarter from which we should expect it. How was the Province of Quebec created? By proclamation—and surely my learned friends will allow as much weight to one of His Majesty's Proclamations as to another. They will not deny the same power to His Majesty in 1791 which he exercised in 1765. If proclamations are such weak acts, what are we to think of the proclamation that has been put in evidence on the present trial and has been resorted to upon all occasions as the justification for all the apparent aggressions which have marked the progress of these unfortunate disputes? But I differ in opinion with my learned friends on that point; if, in 1763 His Majesty could create a Province by proclamation, he, in 1791, could divide and enlarge a Province in the same way. This he has been pleased to do, and all we have to do with this expression of the royal will and pleasure is, to adopt it as the rule by which we are to be governed in considering and deciding the question of jurisdiction now before the Court; and we contend that, looking at this proclamation, it is impossible to say that this offence, if committed at all, was committed within the jurisdiction of this Court, being perpetrated at the Dalles, which form a part of His Majesty's Province of Upper Canada, as created by his Royal Proclamation of 1791.

Friday, 29th May, 1818.

Chief Justice SEWELL.—The Court are most distinctly of opinion, on referring both to the Act of 1791 and that of 1774, that the argument on the defence must fail. What was the object of each Act? Amongst others, that of 1774 was to enlarge the Province of Quebec, which had been created in 1763. That of 1791 was to separate or divide the Province of Quebec into two Provinces, to be denominated Upper and Lower Canada, and make each respectively independent of the other, by giving a Legislature to each respectively, but still retaining between or within the two Provinces, the same extent of country, the same space, as the one Province contained. What is the Act? What is its object, its avowed object? To repeal certain parts of the Act of 1774; and what is the part repealed? It is that part of it which gives authority to the Council of the Province of Quebec; and what is the reason assigned for so doing? Why, that His Majesty had signified it to be his royal will and pleasure to divide his Province of Quebec. To assert that he intended by this that the limits of the Province should be extended by the separation, appears to me repugnant to the plainest principles of common sense, and therefore I cannot assent to it. The short history of the Act of 1791 is briefly this: The King signifies to Parliament his royal intention of dividing his Province of Quebec, and he calls on the Legislature to provide for this alteration by granting an Act adapted to the change. The Legislature pass an Act providing for the due government of the two Provinces, and under the authority of this Act, and the Royal Proclamation, the Province of Quebec was accordingly divided, the Royal Proclamation being an exercise of sovereign authority. His Majesty in that Act, by and with the consent of his Privy Council, declared what shall be the line of separation between Upper and Lower Canada, and how much of the former Province of Quebec shall belong to the one, and how much to the other. The object of the Act and the object of the Royal Proclamation are so clearly expressed that we cannot for a moment doubt upon the subject. What says the Act? "His Majesty having been pleased to signify his royal will and pleasure to separate and divide the Province of Quebec." What says the Proclamation? Why, the very same words. To divide the Province of Quebec, not to add to it, any more than to take away from it. Therefore Upper Canada, in the purview, could include only that part of the Province so divided as was not contained in Lower Canada; but it could not extend beyond those limits which constituted the Province of Quebec, otherwise it would certainly have



been an Act to enlarge, rather than an Act to divide. In delivering this opinion, I am speaking our unanimous sentiment, for we have consulted our brother Perault upon the subject and he clearly concurs with us. According to our understanding of the Act and the Royal Proclamation, we are bound to say, that we consider the argument of the gentlemen concerned for the prisoner, though presented with great ability and ingenuity, must fail, because the western boundary of the Province of Upper Canada is "a line drawn due north from the head of Lake Temiscaming till it strikes the boundary line of Hudson's Bay." The question of fact will remain with the Jury; it is they who are to say whether this place, the Dalles, is or is not to the west of the line which we now declare to be the western boundary of His Majesty's Province of Upper Canada. If they are of opinion that it is within, or to the east of this western line, then it is in the Province of Upper Canada, and not within our jurisdiction; but if they are of opinion that it is to the west of this line, then I am giving you our unanimous opinion when I declare, that the Dalles are in the Indian territory, and not within the limits of the Province of Upper or Lower Canada, but clearly within the jurisdiction of this Court by the Act of the 43rd King, cap. 138, which extends our power to "the trial and punishment of persons guilty of offences within certain parts of North America."

#### MCLELLAN'S CASE.

Archibald McLellan was tried under the same Commission as De Reinhard, on the 12th June, 1818, on a charge of murder committed in the Indian territory. The question of jurisdiction occurred in this case also.

#### CHIEF JUSTICE'S CHARGE (Extracts).

The indictment now under trial is founded upon the Act of the 43rd of the King, which extends the jurisdiction of the Courts of Justice of the Provinces of Lower and Upper Canada, to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces. In the recent trial we had an opportunity largely to consider the boundaries of Upper Canada, as settled by the statute of 1791. We were called upon then to declare or decide, what was the western boundary of that Province, and, as in duty bound, according to the light we possessed upon the subject, we charged the jury that the western boundary of the Province of Upper Canada was, "a line drawn from the head of Lake Temiscaming, due north, till it strikes the boundary line of Hudson's Bay," but also including "all the territory to the westward and southward of such line, to the utmost extent of the country commonly called or known by the name of Canada;" and we are also clearly of opinion that in so charging the jury, we only gave them as the western boundary of Upper Canada that which formed part of the western boundary of the ancient Province of Quebec. In this opinion the Court are unanimous, for I have consulted my learned brothers who sat with me in the late trials. We also concur in declaring that the western boundary of Canada is a line drawn astronomically "North from the junction of the Ohio and Mississippi Rivers, till it strikes the southern boundary of the Hudson's Bay territory," and we consider the point of departure to be in 88° 58' of western longitude. As *we*, gentlemen, are bound to take from you all decisions upon questions of *fact*, so you are bound to receive from *us* decisions upon questions of *law*. Having given you our decision as to the limits of Upper Canada, and the line of separation between the United States and the two Provinces, it remains only for you to settle one point: are, or are not, the Dalles within those limits? That is a question completely with you. It is a matter of fact, and is exclusively your province to decide. I shall now call your attention to the evidence that has been produced, as it relates to locality, because by that will, indeed I might say must, your judgment be guided, in declaring, whether the Dalles are or are not without the lines which separate the United States and the Province of Upper Canada from the Indian territories. Upon this subject, we have first the evidence of Mr. Coltman, who knows and has visited the spot. He tells us that "during the last year he has passed through the

"Lake of the Woods into the River Winnipic, that the course of that river is northerly, "inclining a little west, and that he conceives the Dalles to be from twelve to perhaps "twenty miles from the beginning of the river at the Lake of the Woods;" and Mr. Coltman also states that "he always considered and understood Portage des Rats to be the north "westernmost point of the Lake of the Woods," and on this part of the question he concludes his evidence by saying, "a due west line from Portage des Rats would leave, as he thinks, "the whole of the river Winnipic to the north of it." Mr. Bouchette's testimony corroborates that of Mr. Coltman as to the locality of the Dalles, which are therefore stated to be situated from twelve to fifteen leagues (miles) farther north than the boundary line described. We, therefore, think it right to tell you, (as we told the jury in the late case,) that if, in examining the fact, you find that the Dalles are to the north of a line drawn due west from the most north-western point of the Lake of the Woods, then you are bound to say that it is not in the United States of America; for whether such a line would reach the Mississippi or not is of no consequence to this trial, as a line drawn to that river would have just the same effect. It remains only to enquire: Is it within the province of Upper Canada? As I abstain from reading more evidence than I consider necessary to show, and I presume satisfy you on, the point to which I am directing your attention, upon this branch of the question, involving our jurisdiction, I shall read you the testimony of Mr. Bouchette, which is exceedingly clear as to the locality of the Dalles in reference to Upper Canada. Mr. Bouchette says, "from different authors "and maps I am acquainted with the latitude of Portage des Rats. It is in  $49^{\circ} 39'$  north "latitude, and  $94^{\circ} 5'$  western longitude, calculating from the meridian of Greenwich." He says further, "that the western boundary of Canada is a line drawn astronomically "north from the junction of the Ohio and Mississippi Rivers to the Hudson's Bay "territory, and that such a line would leave the Lake of the Woods and the River Winnipic "entirely to the west; about six leagues to the west." You have now, gentlemen, before you, the whole of the evidence on the subject of the jurisdiction, and there can be no manner of doubt, if you credit the testimony, that the Dalles are to the north and west of these lines which we have, as the expositors of the law, felt ourselves bound to tell you, constitute the boundaries of Upper and Lower Canada in relation to each other and to the United States of America. This question will be submitted to the decision of His Majesty in Council, as it is only by His Majesty, with the assistance of his Council, that the boundaries or limits of his territories can be legitimately and permanently defined. The question, however, having been incidentally brought before us, we have been compelled to declare the limits of Upper Canada. As judges of the law we have done that which we could not avoid; and as the same authority which appoints you the sole judges on matters of fact, constitutes us equally so on points of law, we are bound to tell you that our decision upon the law of the case must be your guide; for, if, on the one hand, we are bound to receive your decisions on matters of positive evidence, so on the other, you are equally obligated to adopt our decisions on points of law as your only guide. If, ultimately, our judgment, or rather decision, should be set aside, by the competent authority, any inconvenience which may result from our erroneous direction will assuredly be obviated, but at present we feel it our duty thus to define the boundary lines; and, comparing our decision with the evidence which I have recapitulated, it is, I think, apparent that the spot, "*en haut des Dalles*," is from eighteen to twenty miles beyond the American line, and from four to five leagues without the boundary of the Province of Upper Canada. Relative to the Lower Province, it is unnecessary to say anything.

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#### CASE OF BROWN AND BOUCHER.

These persons were charged with the crime of murder said to have been committed in the Indian Territory, and tried, under Commission, at York, Upper Canada, 19th October, 1818. The question of jurisdiction arose. The following evidence was given:—

The Honourable WM. BACHELOR COLTMAN, sworn.

Examined by the ATTORNEY-GENERAL.



Mr. COLTMAN.—I went up into the Indian country in the year 1817, and to the place where the settlement at the Red River was established. I never made any survey of the distance which it was from Lake Winnipic, but I should think it was about sixty miles, and having about a south bearing from the nearest point, but as to distance I cannot speak so positively. It was situated at the Forks of the Red and Assiniboin Rivers, which I have generally understood to be in about  $49^{\circ} 30'$  north latitude, and the Red River Settlement commenced at a short distance below the Forks. Its longitude I do not recollect, so as to speak with any degree of certainty, but I should judge it to be in between  $90^{\circ}$  to  $100^{\circ}$  of west longitude; my recollection, however, is very imperfect, but I should think it had something more than  $90^{\circ}$ ; it certainly was more than  $80^{\circ}$ , and according to my recollection and own idea, rather more than  $90^{\circ}$ . The Red River settlement was to the west of the River Winnipic, to the south-east of the Lake Manitoboh, and between that lake and the River and Lake Winnipic. Upon consideration I should think, according to the best of my recollection, that its longitude must have been nearly  $100^{\circ}$  west.

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Cross-examination conducted by Mr. SHERWOOD:—

Mr. COLTMAN.—I have been at Fort Douglas, and also at the spot where it was represented to me that the affair of the 19th June took place. I did not go farther north into the Indian country than into the Red River country, through the River Winnipic and part of the lake of that name. It is certainly a matter of notoriety that the Red River country was formerly frequented by the French traders, that is, before the conquest by the English; but I do not know whether Nouvelle France was considered as taking in this part of the Indian territory.

CHIEF JUSTICE.—I am tolerably conversant with maps myself, but not sufficiently so as to say whether this part of the country was or was not a part of Canada. I never understood, extensive as were the limits of what the French called Louisiana, that they spread so far north as this; nor can I say distinctly that it formed a part of Canada. Relative to Nouvelle France, it was never, I believe, defined with sufficient accuracy to enable us to say what were its limits. If they have been, it is beyond my knowledge.

ATTORNEY-GENERAL.—There is one more question, Mr. Coltman, which I will trouble you with, whether as a magistrate of the Indian territory you acted at Red River in virtue of your commission under the Act of the 43rd Geo. III.

Mr. COLTMAN.—Yes, it was in prosecution of my duties under the commission that I went into the country, and proceeded to the investigation of the difficulties which had occurred there.

#### CHIEF JUSTICE POWELL'S CHARGE (Extract).

It only remains that we consider our jurisdiction, connected with locality, to give us a right to try them under the Act upon which they are indicted. The offence must have been committed out of the limits of this Province; whether we have a right or not, I declare I am at a loss to decide. Mr. Attorney-General has put in evidence the latitude and longitude of the Frog Plains, but he does not put in evidence whether this latitude and longitude is without or within the boundaries of Upper Canada, and I do not know whether from  $99^{\circ}$  to  $100^{\circ}$  or  $150^{\circ}$  from the western limit of Upper Canada, nor do I know whether a place at that longitude, and having  $49^{\circ}$  or  $49\frac{1}{2}^{\circ}$  north latitude, is within the Province of Upper Canada or beyond its boundaries.

ATTORNEY-GENERAL.—Your Lordships will remember that by the questions which I put to Colonel Coltman, I ascertained the precise situation of the place in which Mr. Semple was killed; that is, I proved it to be somewhere between  $90^{\circ}$  and  $100^{\circ}$  west longitude, nearer, as Mr. Coltman said, to  $100^{\circ}$ , and in  $49\frac{1}{2}^{\circ}$  north latitude. I proved it to be at the Forks of the Red River, formed by its junction with the Assiniboin, and that it was situated between the River Winnipic and the Lake Manitoba, about twenty miles west of the former. I had thus established the situation of the place by immutable boundaries, and I conceived it is for your Lordship to instruct the jury, whether a place so situate, be

or be not, without the Provinces of Upper or Lower Canada, and part of the Indian territories. This I conceive to be matter of law, and not matter of fact, deducible from treaties, acts of parliament and proclamations, a point self-evident, and not depending upon extrinsic testimony.

Your Lordship sees that the opinion of an illiterate, uninformed man upon this point would have been, in fact, no evidence. Mr. Coltman was the most proper person to interrogate on the subject. I therefore ascertained from him the exact situation of the *locus in quo*, and thus laid the foundation for future discussion, if there appeared to be doubt on the subject of jurisdiction. I also prove by him that, when at the Forks commissioned to investigate offences that had arisen out of the unhappy differences in that country, he had acted, by virtue of his commission, as a magistrate of the Indian territories, and not as a justice of either Provinces of Canada; this showed, at least, his impression. I could push him no further. I could not, my lord, ask Mr. Coltman to swear positively an oath respecting a matter of opinion, which I have reason to know engages, at this moment, the doubt of many men who have given the matter most serious investigation; and, even if he had, I conceive it would not have been conclusive evidence. I have proved the latitude and longitude of the Red River settlement; it is for the Court to instruct the jury within what territory a place so situated is comprehended, by treaties or acts of parliament, which are matters of public law; and I have always considered that, if this appeared to the Court to require discussion, they would direct the jury, if they should find the prisoners guilty, to bring in a special verdict, declaring them guilty of murder at a place situated, as I have proved by the witnesses, but whether the said place so situated be without the limits of the Provinces of Upper or Lower Canada, and of any civil government of the United States of America, and therefore within the jurisdiction of this Court, by virtue of the Great Seal instrument, produced in evidence, the jury pray the advice of the Court; a special verdict would be drawn up in form, and then the question of jurisdiction would come fairly in discussion before the Court upon the facts of locality found by the jury; and of course guilty, or not guilty, would depend upon the decision of that point.

CHIEF JUSTICE.—That is what I was about saying. Brown, from there being no evidence against him, must be acquitted. If, on the testimony that has been produced, the jury shall be of opinion that the homicide was murder, and that Boucher was a principal, present, aiding, helping, abetting, comforting, assisting, and maintaining the person who committed the murder, from malice aforethought, in himself, or in those that sent him, and that this lamentable effusion of blood did not arise from a sudden impression on rude and half savage minds, from seeing their comrades assailed, or from any apprehension of death to themselves, but that it was the result of a felonious intention, then you will find him guilty on a special verdict to this effect: "We find François Firman Boucher "guilty of the murder of Robert Semple. We cannot see from any evidence before us "what are the limits of Upper Canada." Then, when the case is made up for argument, it will be set forth that the spot was in about  $49\frac{1}{2}^{\circ}$  north latitude, and between  $90^{\circ}$  and  $100^{\circ}$  west longitude, and a solemn decision being had upon it, justice will eventually be administered according to the decision.

The verdict was "Not Guilty."

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#### CONNOLLY vs. WOOLRICH :

Before the Honourable Justice MONK, of Superior Court, Lower Canada, 9th July, 1867.  
Reported in "The Lower Canada Jurist," vol. XI. p. 197.

[The question in this case was as to the legality of a marriage by a Lower Canadian, which took place according to the Indian customs at Rat River, in the Athabasca District (latitude  $58^{\circ}$  north, and  $111^{\circ}$  west longitude), in the North-West Territory; and one point in the case was, whether this place was within the territory of the Hudson's Bay Company. The learned Judge held that it was not, and the following are extracts from his judgment on this point:—]



It will be necessary for me, in the first place, to advert briefly to the discoveries made and trading posts established in those vast and remote regions of the North-West previous to the Charter granted by Charles II. to the Hudson's Bay Company, in 1670.

Spain, England, and France have been the most conspicuous among the European States in the discovery and colonization of America. about the year 1627, the authority of France was successfully established on the banks of the St. Lawrence, though discovery, hunting, and trading by these Europeans had extended farther west previous to that time. Forty-three years after this date, the Charter of King Charles II. was granted to the Hudson Bay Company; and one hundred years later, the whole of North America belonging to France was finally ceded to Great Britain. Long prior to 1670, and so far back as 1605, Quebec had been established, and had become an important settlement. In the early part of the seventeenth century, anterior to 1630, the Beaver and several other companies had been organized at Quebec for carrying on the fur trade in the West, near and around the great lakes and in the North-West Territory. The enterprise and trading operations of these companies and the French colonists generally, extended over vast regions of the northern and western portions of this continent. They entered into treaties with the Indian tribes and nations, and carried on a lucrative and extensive fur trade with the natives. Neither the French Government, nor any of its colonists or their trading associations, ever attempted, during an intercourse of over two hundred years, to subvert or modify the laws and usages of the aboriginal tribes except where they had established colonies and permanent settlements, and then only by persuasion and as the fiercer and more barbarous of the Indian nations receded, or in the lapse of time, when their barbarism had been subdued by contact with the whites, or mitigated by the influences of European civilization. It is quite true, it is contended, they had no right, no lawful authority to do so, yet, as a matter of fact, they appear to have wholly abstained from the exercise of any unjust or arbitrary power in this respect. In the prosecution of their trade and other enterprises, these adventurers evinced great energy, courage and perseverance. How far they carried their hunting and trading explorations into the interior, I am unable precisely to determine; but I am inclined to think they had extended them to the Athabaska country, though perhaps not to Rivière-Aux-Rats, where Connolly was stationed in 1803. The Rat River locality is, so near as I can ascertain, situate in latitude 58° north, and longitude west from Greenwich about 111°. It is on the north shore of the lake, and about 600 miles from the Hudson Bay coast. It is due east 300 miles from the Rocky Mountains, and due north from the boundary line of the United States 650 miles; and it is nearly the same distance, due south, from the Arctic or Frozen ocean. Of course, the deviations along the existing lines of travel would make the distances by these routes much greater than the estimate here made. As before stated, I have no positive evidence that any French trader or hunter visited Rivière-Aux-Rats during the sixteenth, or the first half of the seventeenth century, though there is every reason to believe they had been there. It is, in my opinion, more than probable, from all I can collect or learn from a careful examination of the authorities at my command, that some portions of the Athabaska country had, before 1640, been visited and traded in, and to some extent, occupied by the French colonists and traders in Canada, and their Beaver Company, formed in 1629. From that date, during the thirty years which immediately preceded the grant of King Charles II. in 1670, these discoveries and trading settlements had considerably increased in number and importance. If this be true it will be seen hereafter that, apart from the question of the Company's limits, the Athabaska region was, by a general clause, excepted from the grant of King Charles; for although neither the laws of France nor those of her contiguous colonies, may have obtained at those distant posts in 1670, the date of the Hudson Bay Charter, yet I think it is beyond all doubt that the Athabaska, and other regions bordering on it, belonged to the Crown of France at that time, to the same extent and by the same means as the countries around Hudson Bay belonged to the Crown of England—that is to say, by discovery, by hunting and trading explorations—with this difference, that in the case of the French traders there was a kind of occupation, whereas the English never occupied or settled any part of the Hudson Bay coast till 1669.

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In the celebrated case of Worcester against the State of Georgia (6th Peters' Reports, pages 515-542), Chief Justice Marshall—perhaps one of the greatest lawyers of our time—in delivering the judgment of the Court, said—

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“The great maritime powers of Europe discovered and visited different parts of this Continent at nearly the same time. The object was too immense for any of them to grasp the whole ; and claimants were too powerful to submit to the exclusive or unreasonable pretensions of any single potentate. To avoid bloody conflicts, which might terminate disastrously to all, it was necessary for the nations of Europe to establish some principle which all would acknowledge, and which would decide their respective rights as between themselves. This principle, suggested by the actual state of things, was, ‘that discovery gave title to the government by whose subjects or by whose authority it was made, against all other European governments, which title might be consummated by possession.’ *Johnson vs. McIntosh*, 8, Wheaton’s Report, 543.

“This principle, acknowledged by all Europeans, because it was the interest of all to acknowledge it, gave to the nation making the discovery, as its inevitable consequence, the sole right of acquiring the soil and of making settlements on it. It was an exclusive principle which shut out the right of competition among those who had agreed to it.

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“Soon after Great Britain determined on planting colonies in America, the King granted charters to companies of his subjects who associated for the purpose of carrying the views of the Crown into effect, and of enriching themselves. The first of these charters was made *before possession* was taken of any part of the country. They purport generally, to convey the soil *from the Atlantic to the South Sea*. This soil was occupied by numerous and warlike nations, equally willing and able to defend their possessions. The extravagant and absurd idea, that the *feeble settlements made on the sea coast, or the companies under whom they were made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man*. They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The Crown could not be understood to grant what the Crown did not affect to claim, nor was it so understood.”

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Phillimore in his *International Law*, CCXLI, p. 208, Ed. of 1854, says :—The nature of occupation is not confined to any one class or description ; it must be a *beneficial use and occupation (le travail d'appropriation)*, but it may be by a settlement for the purpose of prosecuting a particular trade, such as a fishery, or for working mines, or pastoral occupations, as well as agriculture, though Bynkershoek is correct in saying, “*cultura utique et cura agri possessionem quam maxime indicat.*”

Vattel justly maintains that the pastoral occupation of the Arabs entitled them to the exclusive possession of the regions which they inhabit. “*Si les Arabes pasteurs voulaient cultiver soigneusement la terre, un moindre espace pourrait leur suffire. Cependant, aucune autre nation n’est en droit des les ressevier, à moins qu’elle ne manquât absolument de terre ; car enfin ils possèdent leur pays ; ils s’en servent à leur manière ils en tirent un usage convenable à leur genre de vie ; sur lequel ils ne regoivent la loi de personne.*”

It has been truly observed that, agreeably to this rule the North American Indians would have been entitled to have excluded the British fur-traders from their hunting grounds ; and not having done so, the latter must be considered as having been admitted *to a joint occupation of the territory*, and thus to have become invested with a similar right of excluding strangers from such portions of the country as their own industrial operations pervade.

Authorities might be accumulated on this point, concerning which all writers agree.

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Hudson’s Bay had been discovered prior to the attempt in which Hudson perished in 1610 ; but from the voyage of Sir Thomas Button, 1611, till the year 1667, it appears to have been wholly neglected by the English Government and nation. In the latter year, the communication between Canada and the Bay was discovered by two Canadian gentlemen, Messrs. Raddisson and DeGroselliers, who were conducted thither across the country by Indians. Succeeding in this, they returned to Quebec, and offered the merchants to conduct ships to Hudson’s Bay, the proximity of which to the principal fur districts was now ascertained. This proposal was rejected as well as a subsequent one to the French Government at Paris ; there they were persuaded by the English Ambassador to go to London, where



they were favourably received by some merchants and persons of high rank, who commissioned a Mr. Gillam, long accustomed to the Newfoundland trade, to prosecute the discovery. Mr. Gillam sailed in the *Nonsuch*, in 1667, into Baffin's Bay, to the height of 75° north latitude, and thence to 51°, where he entered a river, to which he gave the name of Prince Rupert's; and, *finding the Indians friendly*, erected a small fort. The persons interested in this vessel, upon the return of Gillam, applied to Charles the Second for a patent, who granted them the Hudson's Bay Charter, dated the 2nd May, 1670.

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It is no part of my duty, upon the present occasion, to offer any opinion upon the validity of this extraordinary Charter, though that point is not without interest in this case; and it is worthy of note, that some of its clauses have given rise to doubts among lawyers, and have been the occasion for considerable controversy both in England and in this country. Several modes of testing the question have been suggested; but, as yet, none have been adopted. Apart from the immense and irresponsible powers conferred upon the Company, it has been contended that the grant in free and common socage, in fee simple, of such extensive regions of territory in the actual possession of aboriginal and powerful nations, was not in the power of the Crown, and was a violation of the plainest principles of public international law. Some have gone further, and contended that, without the authority of Parliament, such a grant of land and exclusive privileges and monopoly could not be made; that the concession of the exclusive right of trade with the Indian tribes was an illegal exercise of the Royal Prerogative; that the Company have never carried out the intentions of the Crown, either by proper attempts to find a north-west passage to the Southern Ocean, or by making useful discoveries, and planting, settling, and colonizing the territory; that they have not attempted, by even ordinary means, to civilize the natives; nor have they, by judicious and appropriate regulations, laws and government, endeavoured to render such a vast and important dominion of the Crown beneficial to the Parent State. The Company, when called upon, from time to time, have answered these charges more or less successfully, and they have further urged, that in the reign following that in which this Charter was granted, the cession received the confirmation of Parliament; however, it was specially provided that the act of confirmation should only remain in force for the period of seven years, "and from thence to the next session of Parliament, and no longer." After this no re-confirmation of the Charter by Parliament ever took place, though its existence has frequently been incidentally recognized in Acts of that body, and among others may be noticed the following:—By an Act of Parliament of Great Britain (43 George III., chap. cxxxviii.), passed in August, 1803, it was provided that crimes committed within the Indian territories, which, though not conveyed by Charter to the Company, have long been leased to them, should be cognizable by the Courts of Upper and Lower Canada. The preamble of this Act recites that crimes and offences committed within the Indian territories were not cognizable by any jurisdiction whatever. In 1821, an Act (1 and 2 George IV., chap. lxvi.) was passed, extending the provisions of the above-named Act to crimes and offences committed within the territory covered by the Company's Charter, anything "in any Grant or Charter to the Company to the contrary notwithstanding."

This latter Act also gave to the Canadian Courts a right of jurisdiction within the Indian territory, as well as over Rupert's Land, which is covered by the Company's Charter. The existence of the Charter has also been referred to in Royal Proclamations. All this may give rise to interesting investigations hereafter.

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Lord Brougham and his associate Counsel, consulted in 1814 by the North-West Company, were of opinion that the territorial grant was not intended to comprehend all the lands and territories that might be approached through Hudson's Straits by land or by water, but must be limited to the relation of proximity to the Straits, and to the confines of the coasts of the Bay within the Straits; and likewise that the boundary must be such a one as is inconsistent with that view, and with the professed objects of a trading Company, intended not to found Kingdoms and establish States, but to carry on fisheries in their waters, and to trade and traffic for the acquisition of furs, peltries, &c.; and they add,

that as one hundred and fifty years had then elapsed since the grant of the Charter, it must have been ascertained by the actual occupation of the Company what portion or portions of lands and territories in the vicinity, and on the coast and confines of the waters mentioned and described as within the Straits, they had found necessary for their purposes and for forts, factories, towns, villages, settlements, or such other establishments in such vicinity and on such coasts and confines as pertain and belong to a Company established for the purposes mentioned in their Charter, and necessary, useful, and convenient to them, within these prescribed limits, for the prosecution of these purposes: and they say, that the enormous extension of land now claimed (and they had reference only to the Red River District transferred in 1812 by the Company to Lord Selkirk; for no pretence was ever made by the Hudson Bay Company that Rebaska, Rat River, or Athabaska, was within the chartered boundaries, till it was first put forth in this case), appears therefore, not to be warranted by any sound construction of the Charter. Sir Samuel Romilly, Scarlett, afterwards Lord Abinger, and others consulted in 1814 by the Hudson's Bay Company, were of opinion that the grant of the land contained in the Charter was good; and that moreover, it would include all the countries, the waters of which flow into Hudson's Bay.

All this is pretty vague; and what is most apparent and precise, in these opinions, is the different way in which they view the Charter and the western limits of the Company's territories. The Charter grants the right of exclusive trade and commerce of all *seas, straits, rivers, &c.*, that lie within the entrance of *Hudson's Straits*; also together with all the lands and territories upon the countries, coasts and confines of the sea, bays, lakes, rivers, creeks and sounds aforesaid. It seems to me, if these words, taken together, are susceptible of any reasonable construction or interpretation, they were intended to concede a vast extent of country round the whole coast of Hudson's Bay and the rivers flowing into it. That all the regions westward from the shores of the Bay along the great rivers, tributaries of that inland sea, so far as those streams are navigable for the purpose of trade and commerce, are included in the grant; in other words, their limits extend as far west as the head of the water-shed where navigation ceases, in longitude west, 95°.

Assuming this view to be correct, yet the Athabaska region would not be included within the western boundaries of the Company's territory. The Elk, or Athabaska River, rises in the Rocky Mountains, and, after flowing north and west 300 miles, discharges its waters into Lake Athabaska, otherwise known as the Lake of the Hills. By two outlets, the waters of Lake Athabaska flow into Peace River, an affluent of the MacKenzie, through it to the Frozen Ocean. It is idle, therefore, in the opinion of the Court, to contend that Rat River or the Athabaska country are or were ever within the chartered limits of the Hudson's Bay territories.

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By the 10th Article of the Treaty of Utrecht it is provided that:—"X. *The said Most Christian King shall restore to the Kingdom and Queen of Great Britain to be possessed in full right forever, the bay and straits of Hudson, together with all lands, seas, sea-coasts, rivers, and places situate in the said bay and straits, and which belong thereunto, no tracts of lands or of sea being excepted, which are at present possessed by the French subjects of France.*"

The Hudson's Bay territory, as described in the latter treaty, would seem to be restricted to the limits contended for by Lord Brougham, rather than to those laid down by Sir Samuel Romilly; and in any case, I believe, as before stated, that the Athabaska region was beyond and without the chartered limits of the Company, and could not, therefore, come under the operation of that grant. There may, moreover, be urged another reason, and in my opinion successfully, why the Athabaska country should be excluded from the limits of the Hudson Bay territory, and an argument more cogent than that to be found in the vague and doubtful terms of the Charter. It is declared by that remarkable instrument, that the grant is made of all those seas, bays, straits, &c., together with all lands and territories, &c., that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian Prince or State. Now, as I have before remarked, it appears to me to be beyond controversy that in 1670 the Athabaska country belonged to the Crown of France.

It had previously been discovered by French colonists, and been more or less explored by these adventurers and the trading companies of New and Old France. It is true their



settlement and occupation was not precisely that of colonists ; but they were traders with trading posts, explorers, hunters, discoverers, carrying on a trading intercourse with the natives. If this be true, and there can be no doubt of it, the region in question was expressly excepted out of that grant ; and such was the opinion of Lord Brougham and his associate counsel.

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It will be observed that between 1670 and 1763, nearly one hundred years had elapsed, and during that period the French colonists and French trading companies had made settlements and established trading posts as far as the Rocky Mountains ; that these countries were in the occupation of the French.

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## NEGOTIATIONS FOR PEACE OF UTRECHT, 1711.

ADDITIONAL CORRESPONDENCE AND DOCUMENTS. See *ante* pp. 63 to 70.

*To Lord Raby.*

WHITEHALL, April 27, 1711.

MY LORD,—I send Your Excellency inclosed, by Her Majesty's order, the copy of an overture from France, which came a few days since to our hands.

The Queen's pleasure is, that Your Excellency do take the first opportunity of communicating it to the Pensionary, of letting that Minister know, that Her Majesty, who is resolved, in making peace as in making war, to act in perfect concert with the States, would not lose a moment in transmitting to him a paper of this importance.

Your Excellency will please to add that the Queen earnestly desires this secret may be kept among as few as possible, and that she hopes the Pensionary\* will advise upon this occasion with no person whatever, except such as are by the constitution of that government, unavoidably necessary.

As soon as the matter has been considered in Holland, Your Excellency will please to despatch Barlow, who brings you this pocket-book, with the opinion of the Dutch Ministers. . . . .

### OVERTURE FROM FRANCE.

That, as it could not be doubted but the King was in a condition of continuing the war with honour, so it could not be looked on as a mark of weakness in His Majesty to break the silence he had kept since the conferences of Gertrugdenberg, and that before the opening of the campaign ; he now gives farther proof of the desire he always had to procure the repose of Europe. But, after what he hath found by experience, of the sentiments of those persons who now govern the Republic of Holland and of their industry in rendering all negotiations without effect, His Majesty will, for the public good, offer to the English nation those propositions which he thinks fit to make for terminating the war, and setting the tranquility of Europe upon a solid foundation. It is with this view that he offers to enter into a Treaty of peace, founded upon the following conditions :—

*First.* The English nation shall have real securities for carrying on their trade in Spain, the Indies, and the ports of the Mediterranean.

*Secondly.* The King will consent to form a sufficient barrier in the Low Countries for the security of the Republic of Holland ; and this barrier shall be such as England shall agree upon and approve ; his Majesty promising at the same time an entire liberty and security to the trade of the Dutch.

*Thirdly.* All reasonable methods shall be thought of with sincerity and truth, for giving satisfaction to the allies of England and Holland.

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\* Buys.

*Fourthly.* Whereas the affairs of the King of Spain are in so good a condition as to furnish new expedients for putting an end to the disputes about that monarchy, and for the settling it to the satisfaction of the several parties concerned; all sincere endeavours shall be used for surmounting the difficulties arisen upon this occasion; and the trade and interest of all parties engaged in the present war shall be secured.

*Fifthly.* The conferences, in order to treat of a peace upon these conditions, shall be immediately opened, and the Plenipotentiaries, whom the King shall name to assist thereat, shall treat with those of England and Holland, either alone or in conjunction with those of their allies, as England shall choose.

*Sixthly.* His Majesty proposes the Towns of Aix-la-Chapelle or Laize, for the place where the Plenipotentiaries shall assemble, leaving the choice likewise to England of either of the said Towns, wherein to treat of a general peace.

Done at Marly, the 22nd of April, 1711.

DE TORCY.

p. 361.

Mr. Prior is fully instructed and authorised to communicate our preliminary demands to France, and to report the answer to us.

A. R.

pp. 367-8.

*Bolingbroke to the Queen.*

WHITEHALL, September 20th, 1711.

He (M. Mesnager) has put into our hands the answer signed by the King of France to the demands last sent over by your Majesty's order, and this answer complies with every article except the 8th, relating to North America. We find, however, that we shall be able to compound this point with him in the manner which your Majesty some time ago proposed to pass it in, provided France gave you satisfaction on the 7th article, as she has now entirely done.

Vol. 1, p. 374.

#### PRELIMINARY DEMANDS OF GREAT BRITAIN MORE PARTICULARLY.

1. The succession to the Crown of these Kingdoms, according to the present establishment, shall be acknowledged.
2. A new Treaty of Commerce between Great Britain and France shall be made in the most just and reasonable manner.
3. Dunkirk shall be demolished.
4. Gibraltar and Port Mahon shall remain in the hands of those who now possess them.
5. The Treaty of the Assiento shall be made with the English in the same manner as the French hold it at present; and such places in Spanish America shall be assigned to those concerned in the traffic, for the refreshment and sale of their negroes, as shall be found necessary and convenient.
6. All advantages, rights and privileges now granted, or which may be hereafter granted by Spain to the subjects of France, or of any other nation whatever, shall be in like manner granted to the subjects of Great Britain.



7. And for the better protection of commerce in Spanish America, the English shall then be put into possession of such places as shall be named in the Treaty of Peace. France having offered a real security for the trade of her Majesty's subjects in Spanish America, no one doubted but that such places were intended ; and in confirmation of this opinion, France proposed Gibraltar as a security to the commerce to Spain and the Mediterranean. The advantages and privileges offered by M. Mesnager cannot be considered as real securities ; it will always be in the power of Spain to resume them, therefore it is supposed that France is under an engagement either to cause to be ceded to Great Britain the places demanded in that Article, or to procure for that nation some new advantages, such as the love of peace may induce them to look upon as an equivalent ; upon this they consider themselves as under an obligation to insist that the Minister aforesaid be furnished with full powers. And to mark still plainer the sincerity with which the treaty is carried on, and the desire of her Britannic Majesty to promote a general peace, she judges it expedient to declare that the difficulty which occurs upon that Article may be removed by granting to her the following :—

That the Pacte de Assiento be made with Great Britain for the term of 30 years.

That the entire island of St. Christopher be assured to Great Britain.

That the advantages and exemptions from duties promised by M. Mesnager, and which he affirms to amount to 15 *per cent.* on all merchandise of the growth or manufacture of Great Britain, be effectually allowed.

Great Britain can refresh the negroes at Jamaica, and there distribute those to be sent to La Vera Cruz, to Portobello, and to the other factories in that part of the Indies. But as on the coast of the River de la Plata the English have no colony, it is required that an extent of land be assigned upon this river, where they may not only refresh their negroes, but keep them in safety until they be sold to the Spaniards. And as in this demand no trick is meant, they shall be in this respect subject to the inspection of an officer to be appointed for this purpose by the King of Spain.

8. Newfoundland, Hudson's Bay and Straits shall be completely restored to the English. Great Britain and France shall respectively keep and possess all the countries, domains and territories in North America that each nation shall be in possession of at the time when the ratification of the treaty shall be published in those parts of the world.

#### THE ANSWER OF FRANCE TO THE "PRELIMINARY DEMANDS OF GREAT BRITAIN MORE PARTICULARLY."

The King being particularly informed by the last memorial which the British Minister delivered to M. Mesnager, of the dispositions of that Crown to facilitate a general peace to the satisfaction of all parties concerned in the war ; And His Majesty finding in effect, as the said memorial declares, that he runs no hazard by engaging himself in the manner therein declared, since the preliminary will be of no force until the signing of the general peace, and being besides sincerely desirous to advance to the utmost of his power the re-establishment of the repose of Europe, especially by a way so agreeable to His Majesty as the interposition of a Princess, whom so many ties of blood ought to unite to him, and whose sentiments for the public tranquillity cannot be doubted.

His Majesty, moved by these considerations, has ordered M. Mesnager, Knight of his Order of St. Michael, Deputy of the Council of Commerce, to give the following answers, in writing, to the articles contained in the memorial transmitted to him, intituled "Preliminary Demands of Great Britain more Particularly."

1. His Majesty will acknowledge the King of Great Britain in that quality, as also the succession of that Crown according to the present establishment.

2. The King consents to make a new Treaty of Commerce with Great Britain in a manner most just, reasonable, and advantageous to both nations.

3. Although Dunkirk has cost his Majesty very large sums, as well in the purchase of it as in its fortifications, and though it be necessary still to be at a considerable charge to destroy the works, the King will, nevertheless, engage to demolish them immediately after the conclusion of a peace, provided that for the fortifications of this place he receive a proper equivalent ; and, as England cannot furnish that equivalent, the discussion of it shall be deferred to the Conferences to be held for the negotiations of a general peace.

4. The King promises, in the name of his grandson the King of Spain, and pursuant to the power which his Majesty has received from that Prince, that Gibraltar and Port Mahon shall remain in the hands of the English, who at present possess both.

5. After the conclusion of peace, the English shall have the Treaty of Guinea negroes to the West Indies, otherwise called the *Pacte de Assiento*, on the same conditions as were entered into by the King of Spain with the French, so that the company which will consequently be established in England shall be privileged to refresh, sell, and dispose of the negroes in all the towns and ports of America, of the North Sea, Buenos Ayres, and generally in all places and ports where permission was granted to the vessels of the Company established in France, under the title of the *Assiento*.

6. The King promises, for himself and for the King of Spain, according to the power in His Majesty's hands, that in case a peace is concluded, this Article shall be granted, in like manner as the preceding, and that it shall be punctually executed.

7. Though the King of Spain at the beginning of his reign was induced to favour the French nation when he wanted supplies of money for the expenses of an impending war, that Prince, notwithstanding, granted the privilege of transporting negroes to the French for the term of ten years only; it would therefore be a great favour to the English to give up to them for twenty years a prerogative of which it seems all European nations would wish to partake each in its turn. Nevertheless, His Majesty promises that the King, his grandson, shall grant to the English during twenty successive years the transportation of negroes from Guinea to the West Indies, otherwise called the *Pacte de Assiento*, with the same conditions, prerogatives and privileges granted to the French Company, and which they do or might enjoy from the 1st of May, 1702, to the present time.

The King consents to this Article. His Majesty in like manner promises, in the name of the King of Spain, the advantages and exemptions from duties mentioned in that Article, and which the English shall enjoy immediately after the conclusion of the peace, upon the exchange of the ratifications.

The general peace being effected, an assignment shall be made to the English *Assiento* Company of an extent of land on the River de la Plata, where they may not only refresh their negroes, but keep them in safety until they be sold, according to the conditions stipulated in the agreement to be entered into for the *Assiento*. And to prevent any abuse of this concession, the King of Spain will nominate an officer as Superintendent, to whose inspection those interested in the Company, and in general those employed in their service, shall be subject.

8. The discussion of this Article shall be deferred to the general conferences for the peace, it being well understood that the right of fishing and drying cod upon the island of Newfoundland be reserved to the French.

In execution of the King's order, we, the undersigned, Knight of his Order of St. Michael, Deputy of the Council of Commerce, have stated the present answer to the preliminary demands for Great Britain, to the amount of eight Articles, by virtue of authority from His Majesty, of which we have delivered a copy signed by us; and we promise, in the name of his said Majesty, that the said answers shall be regarded as conditions which he agrees to grant, the Articles of which shall be put into the common form of treaties, and explained in the plainest and most intelligible manner to the common satisfaction of the Crowns of France and Great Britain, and this in case of the signing of a treaty for a general peace. In faith of which we have signed and sealed. Done, &c.

The Most Christian Prince having signified to Her Majesty, his sincere desire for the re-establishment of the general tranquility of Europe by a peace definitive, sure, lasting, and suitable to the interests of all the allies, and having expressed his desire that the Queen would promote the negotiations of such a peace, it has been found just and reasonable that the interests of Great Britain should be, in the first place, adjusted and ascertained; on this account His Most Christian Majesty has sent over M. Mesnager, Knight, &c., he has stated the above eight Articles by authority from His Most Christian Majesty; a copy of which he has given us, signed by him, of which Articles we, the undersigned, declare by virtue of the express order of Her Majesty, her acceptance as preliminaries which contain only those securities and advantages, which Her Majesty thinks she has a right to expect,



whoever be the Prince who may acquire the monarchy of Spain. And these articles must be regarded as conditions which His Most Christian Majesty agrees to grant. These Articles to be put into the common form of treaties, &c., &c.

Done at London, 27th September O. S., 8th October N. S., 1711.

DARTMOUTH,  
H. St. JOHN,  
MESNAGER.

(Vol. I., pp. 403-4.)

PRELIMINARY ARTICLES ON THE PART OF FRANCE FOR THE ATTAINMENT OF A GENERAL PEACE.

The King being willing to contribute all that is in his power to the re-establishment of a general peace, His Majesty declares :

1st. That he will acknowledge the Queen of Great Britain in that quality, as well as the succession to the Crown according to the present settlement.

2nd. That he will freely and *bona fide* consent to the taking all just and reasonable measures to prevent the re-union of the Crowns of France and Spain on the head of the same prince, His Majesty being persuaded that that excess of power would be contrary to the welfare and peace of Europe.

3rd. The King's intention is, that all the parties engaged in the present war, without excepting any one, may find their reasonable satisfaction in the treaty of peace to be made ; that commerce may be re-established and maintained for the future, to the advantage of Great Britain, of Holland, and of other nations who have been accustomed to carry it on.

4th. As the King will also strictly support the observance of the peace when concluded; and as the object of His Majesty is to secure the frontiers of his kingdom without molesting, in the smallest degree, the neighbouring States, he promises to agree by the future treaty of peace that the Dutch shall have in their possession the fortress which shall be named in the Netherlands to serve in future as their barrier, which may secure the quiet of the Republic of Holland against any enterprise from France.

5th. The King consents likewise that a secure and convenient barrier should be formed for the Empire and for the House of Austria.

6th. Though Dunkirk has cost the king large sums, as well in its purchase as in its fortification ; and though it be necessary still to be at very considerable expense to raze the works, His Majesty will, nevertheless, engage to demolish them after the conclusion of the peace, on condition that he do receive a proper equivalent for the fortification of that place ; and as England cannot provide that equivalent, the discussion shall be deferred to the conference to be held for the negotiation of a peace.

7th. When the conferences for the negotiation of the peace shall be formed, all the pretensions of the Princes and States engaged in the present war shall be there discussed, *bona fide* and amicably, and nothing shall be omitted to regulate and terminate them to the satisfaction of all parties.

By virtue of the King's authority, &c., &c.

MESNAGER.

(Vol. 2, p. 219.)

*Marquis de Torcy to Lord Bolingbroke.*

VERSAILLES, March 20th, 1712.

SIR,—

The King's Plenipotentiaries receive new orders from His Majesty, to agree with the Bishop of Bristol, and the Earl of Stafford, upon the conditions he can grant to the demands of Great Britain. As His Majesty cannot suppose your Plenipotentiaries have orders to exact such terms as would prove the ruin of the trade of his subjects, and of

the navigation of his kingdom, so is he persuaded that these new concessions, both for Great Britain and for those powers whose interests she espouses, will promote the success of the negotiation. But in the mean time, Sir, the King expects your Plenipotentiaries will show less eagerness in the support of the demands of the House of Austria, of the States-General, and of many Princes of the Empire, who only complain because they are urged so to do by the enemies to the peace. The most effectual way to promote it is for the Queen of Great Britain also to send new directions to her Ministers at Utrecht, to act in future more in concert with the King's Plenipotentiaries.

Suffer me again to entreat your best exertions for so great a blessing, and do me the justice to believe, that I am, &c.

DE TORCY.

(p. 207.)

MEMORIAL SENT BY M. GAULTIER.

March 4th, 1711-12.

From the commencement of the correspondence between Great Britain and France on the subject of peace, it has been an established maxim that we must not, if it can be avoided, expose ourselves to the events of the campaign: the Queen continues of this opinion, and has taken all necessary precautions, on her part, to bring the negotiations at Utrecht to a happy conclusion. From what has lately occurred here, one may have remarked the favourable disposition of the House of Commons, which, according to the constitution of this Government, is principally to be looked up to in concerns of peace and war.

Mr. Harley sets off to-morrow for Utrecht; he is amply instructed in Her Majesty's intentions upon all the essential points that may come to be discussed in the negotiation, and he carries their last orders to the Plenipotentiaries.

The Queen has been sensibly affected by the misfortunes lately happened to France: she does not doubt that the death of those princes may be used as an argument by those who desire the continuance of the war, but she believes the surest means of rendering their scheme fruitless will be to agree without loss of time upon the necessary measures to prevent the union of the two crowns. For this purpose the Queen suggests a proposal that the Prince now in the possession of the Crown of Spain should, for himself and his issue, execute a formal renunciation of that of France, and that the line of succession to both should be declared and fixed in the treaty of peace: it were also to be wished that the Cortes or States of Spain should one way or other concur with this act.

(Vol. 2, p. 221.)

VERSAILLES, March 28th, 1712.

SIR,—However great the pleasure I have in receiving the honour of your letters, I shall be no longer uneasy at their delay, finding by your last that the period of your silence is employed so usefully towards the success of that important business which I hope you will conduct to a fortunate conclusion. Monsieur Gaultier has given me an account of all the measures you have taken to promote it. He goes to Utrecht, where I judge his presence necessary to strengthen the union and confidence between the King's and the British Plenipotentiaries. I hope the last orders given by Her Majesty to her Ministers will establish this good understanding upon solid grounds, and that you will finish what remains to the glory of the Queen, your Mistress.....

DE TORCY.



(p. 222.)

## REPLY TO THE MEMORIAL DELIVERED BY M. GAULTIER.

March 23rd, 1712.

The King desires as sincerely as the Queen of Great Britain to prevent the events of the campaign, and to agree before it opens on terms of peace. . . . The King is assured that those who with so much ability manage the affairs of the Queen of Great Britain, will know well how to make the party submit, and oblige them to conform to the true interests of the nation, whenever the Plenipotentiaries of France and England at Utrecht, shall have agreed upon a just and reasonable plan of peace. To forward this, His Majesty has directed his Plenipotentiaries to grant further compliances, of which they will inform Mr. Harley. He learns with pleasure that the Queen of Great Britain has fully instructed him in her intentions, and has given him her last orders, not doubting that Princess restraining within the bounds of justice and reason, the vague terms, reasonable satisfaction and real security, which her allies extend, not only to the most extravagant demands, which they have actually made, but also to those which they have not yet thought of, and which they reserve with the apparent intention of protracting the negotiation. . . . France will never consent to become a Province of Spain ; Spain says the same thing with respect to France : the question then is, What well-founded means can be used to prevent the union of the two Monarchies ? But we should absolutely go from the point we aim at, and fall into infinite dangers, worse, if possible, than that we anxiously desire to avoid, were we to contravene the fundamental laws of this Kingdom. According to these laws the Prince next the Crown is the necessary heir to it ; it is a patrimony which he receives neither from the king, his predecessor, nor from the people, but by virtue of the law ; so that upon the demise of a king, another immediately succeeds him without awaiting the consent of any one. He succeeds not as heir, but as the monarch of the kingdom, the lordship of which belongs to him, not from election, but from right of birth alone ; he is indebted for his crown neither to the will of his predecessor nor to any act or decree, nor, in a word, to the generosity of any one, but to the law ; this law we consider as the work of Him who hath founded all monarchies, and we in France are persuaded that God alone can abolish it.

No renunciation can then destroy it, and if the King of Spain gave in his for the sake of the peace, and in obedience to his grandfather, we should deceive ourselves if we received it as a sufficient expedient to prevent the evil we propose to avoid. It would on the contrary be the source of the greatest evils ; it would open the door for civil war in the Kingdom, the flame of which would again spread itself through Europe. We must then look out for other expedients to prevent for ever an union equally dangerous to France, to Spain, and to all Europe.

(Vol. 2, p. 286.)

## GENERAL PLAN OF PEACE.

(*O.* Offers of France confidentially communicated to the British Ministry by Count De Torcy. *D.* Further demands of Great Britain. *R.* Reply of the King of France to those further demands.)

## FOR GREAT BRITAIN.

*O.* 1. The King promises to consent without difficulty to everything contained in the 1st, 2nd, 3rd, 4th and 5th Articles of the specific demands of the Queen of Great Britain.

*O.* 2. The King will demolish the fortifications of Dunkirk, as well those of the town as the citadel, the Rysbanks, and the other forts on the sea side, and in three months after, those on the land side ; to be computed from the day of exchanging the ratifications,

the whole at his own expense, and with a promise never to repair them, in the whole or in part.

O. 3. The King will give up the island of St. Christopher to Great Britain, as also Newfoundland, on condition that the Town of Placentia be razed ; that the French retain the free right to fish and dry cod at Newfoundland, in the place where they have been accustomed so to do. The small islands adjoining, and in the neighbourhood of Newfoundland, shall be likewise ceded to England, it being well understood that the island of Cape Breton, and others in the Gulf and mouth of the River St. Lawrence, of which France is actually in possession, shall remain to the King.

(O. 4, 5, 6, 7 are printed on pp 63-4.)

O. 8. The King will permit the House of Hamilton, Colonel Charles Douglas, and others, to represent to him their several rights and pretensions, and will do them strict justice.

D. That the Duke of Richmond be considered as the heir of his mother.

R. The Duke of Richmond having obtained the King's letters of naturalization, shall, when peace is made, enjoy the privilege attached to the favour granted to him by His Majesty.

D. That the 4th Article of the Treaty of Ryswick be established, and that the King do give no opposition to the regulating of affairs of religion in the empire, pursuant to the Treaty of Munster.

R. In consideration of England, the King wishes this affair should be regulated with the empire ; his Majesty having no intention to derogate from the Treaties of Westphalia, on the subject of religion.

O. 9. The King, in the name of the King of Spain, his grandson, promises that Gibraltar and Port Mahon shall remain in the hands of the English.

D. That the extent of country round Gibraltar, equal to two cannon shot, and the whole island of Minorca, be ceded to England.

R. The King had great difficulty to induce the King of Spain to give up Gibraltar to the English, that Prince's intention being, as he often declared, not to yield an inch of land in Spain. It will be still much more difficult to obtain from him the smallest concession, on so important a point, now when he is urged to renounce his rights to the Crown of France, and look upon Spain as the only patrimony he can leave to his descendants.

So that this new demand will be sure of a refusal ; and the power which His Majesty has received from the Catholic King is directly contrary to such a pretension.

As he has not explained himself with regard to the entire cession of the island of Minorca, the King will use his endeavours to obtain it, as a sort of equivalent for territory around Gibraltar ; and on this consideration, and from this time, His Majesty promises that the whole island of Minorca shall be ceded.

O. 10. After the conclusion of peace, the English shall have the transportation of negroes to the West Indies, otherwise called the Assiento Treaty for negroes, upon the same conditions as agreed upon between the King of Spain and the French ; so that the Company which for the purpose will be established in England, shall have the privilege of refreshing, selling, and delivering their negroes in all places and ports of America, upon the North Sea, in Buenos Ayres, and generally in all places and ports where the ships of the Company established in France, under the name of Assiento, are permitted to enter.

D. That the French do not withdraw their Assiento effects, otherwise than by English or Spanish vessels.

R. Those concerned in the Assiento Company will strictly observe the terms of their agreement ; consequently they cannot, under the pretence of bringing away their effects, trade to the Indies direct : and they would absolutely lose them, should they be forced to put them on board other vessels than those of their Company.

The peace having for its object the general benefit of both French and English, it would be unjust that one of the first advantages which results to England should be to the prejudice of France ; if the English will enter into a bargain to purchase the effects of the French Company, this inconvenience will be avoided.

O. 11. The said treaty shall be for thirty years, and there shall be assigned to the English Assiento Company an extent of land upon the River de la Plata, where they may not only refresh their negroes, but keep them in safety until they be sold according to terms to be stipulated in the Assiento contract ; and to prevent any abuse of this concession, the King of Spain will appoint an officer to superintend, to whose inspection those



concerned in the said Company, and generally those whom they shall employ in their service, shall be subject.

D. That this extent of territory be submitted to the choice of the English, and that the Spanish Inspector be suppressed.

R. The demands made to the King in this Article are known in England: His Majesty obtained them from the King, his grandson, with great difficulty. He can neither demand, nor grant in his name, any further addition to what has been acceded to for the sake of peace; if the English think proper to insist upon further advantages, they must make a direct application to the Spanish Plenipotentiaries, who, for this purpose, must have the necessary passports sent to them, that they may repair to Utrecht.

O. 12. All advantages, rights and privileges now granted, or which hereafter may be granted by Spain to the subjects of France, or to any other nation whatever, shall be in like manner granted to the subjects of the Queen of Great Britain.

O. 13. His Majesty promises in like manner that all merchandise of the growth of Great Britain going from the ports of Spain, from whence vessels are dispatched for the Spanish Indies, shall be free of all duties of import and export, as well in Spain as in the Indies.

O. 14. All the above Articles shall be understood in the most ample and proper manner in the treaty of peace, and to them shall be added clauses for the cessation of hostilities, and other mutual assurances, according to the custom of preceding treaties, which shall be acknowledged to possess and have their former force and effect, except where they are repealed by this; and this clause shall be added at the end of each instrument.

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#### EXTRACT.

*Marquis de Torcy to Lord Bolingbroke, December 29th, 1712.*

In the name of God, sir, order your plenipotentiaries to be less excellent grammarians. Ours, who also understand the force of Latin expressions, are out of patience when they see difficulties, which have been long adjusted, started again, and the difference between *cession* and *restitution*, and the meaning of those terms. In truth, sir, such questions ought not to be the amusement of honourable men. They are at best excusable only to those to whom we may apply *amantium iræ*. Finish these disputes, which, if they continue longer, will only profit our enemies.

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#### EXTRACT.

*Lord Bolingbroke to Marquis de Torcy, 7th January, o.s., 1712½.*

There are certain things which derive their consequence purely from being disputed; the difference between the expressions *cedendis* and *restituendis*, between *assumpsit* and *usurpavit* or *arrogavit* is not very essential; the mind was, however, not a little heated in the dispute, and it required some trouble to convince certain people that the matter was not worthy of attention.

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MEMORIAL from M. de Torcy, 7th January, 1712½, for Mr. Prior.

The 9th (10th) article of the plan imports, that the King shall give up to the Queen of Great Britain, Hudson's Bay, &c., in the manner they are now possessed by the King and the French.

The plenipotentiaries of Great Britain insist that it shall be expressed that France shall restore not only what has been taken from the English, but also all that England has ever pos-

*seduced in that quarter.* This new clause differs from the plan, and would be a source of perpetual difficulties; but to avoid them, the King has sent to his plenipotentiaries the same map of North America as had been furnished by the plenipotentiaries of Great Britain. His Majesty has caused to be drawn upon this map a line which describes the boundaries in such a manner as he has reason to think they easily may agree [upon] this point on both sides.

If, however, there should be any obstacle which the plenipotentiaries cannot remove, the decision must be referred to commissaries to be named for the adjustment of the boundaries of America. The same article says that the King's subjects shall be at liberty to depart from their lands, in places ceded by his Majesty to the Crown of Great Britain, to carry with them their good and moveables and to go wherever they please by sea or land. The plenipotentiaries of France have also reserved to them the right of disposing of their immovable effects in the space of three years.

The plenipotentiaries of Great Britain agree to one year. . . . Under the name of places *ceded* they include Acadia and the Island of St. Christopher. Under the name of places *restored*, Hudson's Bay and Straits, and the Island of Newfoundland.

Upon Article 10 (11) the plenipotentiaries of France demand, that the English, obtaining the right to prefer their complaints of loss sustained in Hudson's Bay before the commissaries, the King's subjects should have the same right with regard to the business at Nevis and Gambia.

This mutuality, which the plenipotentiaries of Great Britain have not yet been willing to grant, seems just. The English shall have the same liberty to represent their losses at Montserrat, and to solicit a reparation, which shall be granted to them.

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"MEMORIAL concerted with Marquis de Torey, 19th January, 1713, and forwarded to Lord Bolingbroke, by the Duke of Shrewsbury." Hard. St. P., vol. 2, p. 500 (Prior's letter) written from Paris.

The inhabitants of Hudson's Bay, subjects of the Queen of Great Britain, who have been dispossessed of their lands by France, in time of peace, shall be, entirely and immediately after the ratification of the treaty, restored to the possession of their said lands; and such proprietors shall also have a just and reasonable satisfaction for the losses they have suffered, with respect to their goods, moveables and effects; which losses shall be settled by the judgment of commissaries, to be named for this purpose, and sworn to do justice to the parties interested.

As to the limits of Hudson's Bay, and what the ministry here seem to apprehend, at least in virtue of the general expression, *tout ce que l'Angleterre a jamais possédé de ce côté là*, (which they assert to be wholly new, and which I think is really so, since our plenipotentiaries make no mention of it,) may give us occasion to encroach at any time upon their Dominions in Canada, I have answered, that since, according to the *carte* which came from our plenipotentiaries, marked with the extent of what was thought our dominion, and returned by the French with what they judged the extent of theirs, there was no very great difference, and that the parties who determine that difference, must be guided by the same *carte*. I thought the article would admit no dispute. In case it be either determined immediately by the plenipotentiaries or referred to commissioners, I take leave to add to your Lordship that these limitations are no otherwise advantageous or prejudicial to Great Britain than as we are better or worse with the native Indians, and that the whole is a matter rather of industry than dominion. If there be any real difference between *restitution* and *cession*, *quaritur*? Yet since, in either case, the right of the inhabitant as to transferring his goods and effects, or disposing of his person and family is always provided for in treaty, I leave it to your Lordship's better judgment if a fixed time in either case, (suppose eighteen months or two years) does not put the subject, who is to have the benefit which *restitution* or *cession* grants him, upon a more equal foot, &c.—Prior to Bolingbroke, 8th January, n. s., 1713, Hard. St. P. Vol. 2, p. 500.



MEMORANDUM enclosed in Letter of May 6th, 1857, from Chief Justice DRAPER, Agent of the Province of Canada, to the Secretary of State.\*

It is not proposed at present to discuss the validity of the Charter of the Hudson's Bay Company. A careful perusal of it will suggest many doubts whether it be not altogether void. But assuming that it may be sustainable for every or for any of the purposes for which it was intended, and for the moment conceding that the indefinite description of the territory purporting to be granted, does not vitiate the grant, there is a question as to the limits of that territory in which the Province of Canada is deeply interested.

The parts of the Charter bearing on this question are as follows :

1.—“ All the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid ” (stated in a preceding part to be those which lie within the entrance of the straits, commonly called Hudson's Straits, in whatsoever latitude, such bays, &c., should be), “ that are not already actually possessed by or granted to any of our subjects, or possessed by the subjects of any other Christian prince or State, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the seas, bays, inlets and rivers within the premises; and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid; and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called Rupert's Land: And, further, we do by these presents, for us, our heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, as of our Manor of East Greenwich, in our county of Kent, in free and common soccage.”

And, 2.—“ And furthermore, we do grant unto the said Governor and Company and their successors, that they and their successors, and their factors, servants and agents, for them and on their behalf, and not otherwise, shall for ever hereafter have, use and enjoy, not only the whole, entire, and only trade and traffic, and the whole, entire and only liberty, use and privilege of trading and trafficking to and from the territory, limits and places aforesaid, but also the whole and entire trade and traffic to and from all havens, bays, creeks, rivers, lakes and seas into which they shall find entrance or passage, by water or land, out of the territories, limits or places aforesaid, and to and with all the natives and people inhabiting within the territories, limits and places aforesaid, and to and with all other nations inhabiting any of the coast adjacent to the said territories, limits and places which are not granted to any of our subjects.”

Prior to this Charter, there was little or nothing done within Hudson's Bay in the way of taking any actual possession of the territory granted. The bay had been discovered, several ships from time to time had entered it, and probably some interchange of commodities with the Indians had taken place while the vessels remained within the Straits; but nothing whatever was known of the interior. Charles the Second claimed, for it was no more than a claim, all the territory which the discovery of the Straits and Bay could confer on the British Crown. The French Crown in like manner had claimed, by reason of their actual settlement of Canada, and of their progressive discoveries and trade, not only all the western territory, including that now in dispute, but even the Bay of the North, and thence to the Pole; but neither French nor English had, in 1670, actually penetrated, so far as appears, within many hundred miles of the Red River.

The settlements made by the Hudson's Bay Company were at first confined to those on the shores of James Bay, and at the Churchill and Hayes Rivers. Henley House, which is about 150 miles up the Albany River, was not erected before the year 1740. The Company afterwards erected Fort Nelson, which is laid down on the maps at about 200 or 230 miles from the mouth of Churchill River, and the fort at Split Lake, which is

\* Printed in the Appendix to the Report of the House of Commons Committee inquiry into the affairs of the Hudson's Bay Company, p. 374.

represented as about 140 miles from the mouth of the Nelson River. It is believed that these two last named forts are of comparatively modern erection, but that, at all events for more than a century after the date of the Charter, these, together with the forts on or near the shores of the bays, were the only settled posts of the Hudson's Bay Company.

This throws some light upon the view, which the Company practically adopted, of the extent of their territories.

In many written documents they treat Hudson's Straits and Bay as the governing and principal matter, in reference to or for the purpose of securing which, the grant of territory was made to them.

In a petition addressed by the Hudson's Bay Company to Charles the Second, in 1682, they say that His Majesty was graciously pleased to incorporate them, and to grant to them for ever all the said bay, and the straits leading thereunto, called Hudson's Straits, with all the lands and territories, rivers and islands in and about the said Bay, and the sole trade and commerce there; and, referring to a letter of Monsieur de la Barre, the Governor of Canada, threatening to drive them out, they observe, they doubt not but that by the King's Royal authority and protection, they will be enabled to defend his undoubted right and their own within the Bay, "wherein never any nation but the subjects of your Imperial Crown has made discoveries or had any commerce."

In a letter dated January 25, 1696-7, they urge, "whenever there be a treaty of peace between the Crowns of England and France, that the French may not travel or drive any trade beyond the midway betwixt Canada and Albany Fort, which we reckon to be within the bounds of our Charter."

In 1698, in a letter written by their Deputy-Governor to the Lords Commissioners of Trade, they repeat the same desire.

In a memorial, dated in June, 1699, they represent the Charter as constituting them the true and absolute proprietors of Hudson's Bay, and of all the territories, limits and places thereto belonging. They further set forth the attacks made in 1682 and 1686 by the French from Canada, and their applications for redress, and the declaration made by James the Second that he, upon the whole matter, did conceive the said Company well founded in their demands, and therefore did insist upon his own right and the right of his subjects to the whole Bay and Straits of Hudson, and to the sole trade thereof; and they pray the then King, William the Third, to insist upon the inherent right of the Crown of England and the property of his subjects not to be alienated, that so considerable a trade might not be lost, and the Hudson's Bay Company, "be left the only mourners" in the peace of Ryswick.

At this time all their forts but one (Albany Fort) had been taken by the French; some of them, indeed, while the two Crowns were at peace; an act of aggression specially referred to by His Majesty in the declaration of war in 1689.

In January, 1700, being called upon by the Lords of Trade and Plantations, they offered proposals for limits between them and the French in Hudson's Bay, insisting at the same time upon their undoubted right "to the whole Bay and Streights of Hudson." The proposed limits were, to confine the French from trading or building any house, factory or fort to the northward of Albany River, situate in about 53° of north latitude on the west main coast, or to the northward of Rupert's River, on the east main or coast of the Bay, binding themselves not to trade or build any house, factory, or fort to the southward of these two rivers "on any ground belonging to the Hudson's Bay Company." They urged that these limits should be settled; stating, that if the French refused, they must insist upon their prior and undoubted right to the whole Bay and Straits of Hudson, which, they observed, the French never yet would strictly dispute or suffer to be examined into, though the first step of the eighth article of the Treaty of Ryswick directs the doing of it. These limits would have given the French access to the Bay by the Moose River.

The French Ambassador did, however, in March 1698-9, set forth the claims of his sovereign in a long answer to the English memorial, among other things observing that the different authors who have written about Canada or New France, gave it no limits northwards, and that it appeared by all the grants or letters of corporation made at several times by the Kings of France to the companies settled in New France, and particu-



larly in 1628, that all the Bay of the North is comprehended in the limits mentioned by the said grants.\*

He also further suggested, that if the English had had any knowledge of the Bay, or any claim thereto, they would not have failed to have insisted on it, and expressly to mention it in the treaty of 1632 (that of St. Germain-en-Laye), when they restored to the French, New France. Admitting that the French neither then nor for a long time afterwards had any forts on the coasts of the Bay, he explains it by saying, that being masters of the inland country, the savages, with whom they had a continual trade, brought their furs over lakes and rivers.

In April, 1714, the Hudson's Bay Company thank the Queen "for the great care your Majesty has taken for them by the Treaty of Utrecht, whereby the French are obliged to restore the whole Bay and Streights of Hudson; the undoubted right of the Crown of Great Britain."

In August, 1714, in reference to the same treaty, the Hudson's Bay Company proposed that the limits between the English and French on the coast of Labrador, should commence from the island called Grimington's Island or Cape Perdrix, in the latitude of  $58\frac{1}{2}^{\circ}$  N., which they desire may be the boundary between the French and English on the coast of Labrador; and that a line be drawn south-westerly, to pass through the centre of Lake Mistassinhie; and from that lake a line to run south-westward into  $49^{\circ}$  north latitude; and that such latitude be the limit, that the French do not come to the north nor the English to the south of it.

In another paper of about the same period, they give the following account of the motives which induced the formation of the Company: "It was, therefore, after the happy restoration of King Charles II. that trade and commerce began to revive, and in particular that some noblemen and other public-spirited Englishmen, not unmindful of the discovery and right of the Crown to those parts of America, designed at their own charge to adventure the establishing of a regular and constant trade to Hudson's Bay, and to settle forts and factories there, whereby to invite the Indian nations (who lived like savages many hundred leagues up in the country) down to their factories."

In August, 1719, the Hudson's Bay Company acknowledges the surrender by the French of the Straits and Bay, in such manner that they had nothing to object or desire further on that head. But they urged the settlement of the limits between the English and French territories without delay, since the French subsequently to the conclusion of the peace (in 1715) made a settlement at the head of Albany River, upon which the Company's principal factory was settled, whereby they interrupted the Indian trade from coming to the Company's factories. It was therefore proposed and desired, "that a boundary or dividend line may be drawn so as to exclude the French from coming anywhere to the northward of the latitude of  $49^{\circ}$ , except on the coast of Labrador; unless this be done, the Company's factories at the bottom of Hudson's Bay cannot be secure, or their trade preserved."

In all the foregoing documents it will be observed, that whether upon the peace of Ryswick, when English affairs looked gloomy, and those of France were in the ascendant, or after the Treaty of Utrecht, when the power of France was broken, the Hudson's Bay Company sought to have the boundary between the territories they claimed and those forming part of Canada, settled by some defined and positive line which was to be the result of negotiation, not then pretending that there was anything in their Charter which gave them a rule by which they could insist that the extent of their territories to the southward should be ascertained.

Even in October, 1750, they entertained the same views, while at that time they were pushing their pretensions, both to the northward and westward to the utmost limits. They state that the limits of the lands and countries lying round the Bay, comprised, as they conceived, within their grant, were as follows: "All the lands lying

\* L'Escarbot describes Canada at the period of the appointment of De la Roche, in 1598, thus: "Ainsi notre Nouvelle France a pour limites du côté d'ouest les terres jusqu'à la Mer Pacifique au delà du Tropique du Cancer, au midi les îles de la Mer Atlantique du côté de Cuba et l'île Espagnole, au levant la Mer du Nord qui baigne la Nouvelle France; et au septentrion cette qui est dite inconnue vers la Mer Glacée jusqu'à la Pole Arctique."

on the east side or coast of the said Bay, eastward to the Atlantic Ocean and Davis's Straits, and the line hereafter mentioned as the east and south-eastward boundaries of the said Company's territories. And towards the north, all the lands that lie on the north end or on the north side, or coast, of the said Bay, and extending from the Bay northwards to the utmost limits of the lands there towards the North Pole; but where or how these lands terminate is at present unknown. And towards the west, all the lands that lie on the west side or coast of the said Bay, and extending from the Bay westward to the utmost limits of those lands; but where or how those lands terminate to the westward is also unknown, though probably it will be found they terminate on the Great South Sea. And towards the south, all the lands that lie on the south end, or south side of the coast of the said Bay, the extent of which lands to the south to be limited and divided from the places appertaining to the French in those parts, by a line," &c., describing the line from Cape Perdrix to the 49th parallel, and along that parallel westward, as in their proposals of August, 1719, excepting that they state the starting point to be in latitude  $59\frac{1}{2}^{\circ}$  N. They add, with regard to this boundary, that "to avoid as much as possible any just grounds for differing with the French in agreeing on those boundaries which lie nearest their settlements, it is laid down so as to leave the French in possession of as much or more land than they can make any just pretensions to, and at the same time leaves your memorialists but a very small district of land from the south end of the said Bay necessary for a frontier." It is worthy of remark, that this line would have given to France the southerly portion of the Lake of the Woods, Rainy River and Rainy Lake, which are now claimed as within the Company's territories.

The foregoing extracts are deemed sufficient to establish what the Company considered their territorial rights in reference to their connection with and proximity to Hudson's Bay itself, where they had planted their factories and desired to attract the Indian trade. They certainly show that neither after the treaty of Ryswick, nor that of Utrecht, when they stated the boundaries, they were either willing to submit to, or were desirous of obtaining; nor yet in 1750, when they set forth what they thought themselves entitled to claim under their Charter, did they ever think of asserting a right to all the countries the waters of which flow into Hudson's Bay. Their claims to lands lying both northward and westward of the Bay are entirely at variance with any such idea. Sir J. Pelly, before a Committee of the House of Commons, in March, 1837, seems to have adhered to the views expressed in 1750, when he said "the power of the Company extends all the way from the boundaries of Upper and Lower Canada away to the North Pole, as far as the land goes, and from the Labrador coast all the way to the Pacific Ocean," though he afterwards explains that the Company claimed in fee-simple all the lands the waters from which ran into the Hudson's Bay.

It is submitted, that if this latter claim were well founded, the further grant in the Charter of exclusive trade beyond the limits of the territories granted in fee-simple, would give colour to the assertion of the "power" of the Company extending to the Pacific; assuming that the word "power" was used to designate the exclusive right of trade, and not the ownership of the territory. For if the Charter gives the fee-simple of the lands to the Rocky Mountains, the Pacific is a "Sea," and Frazer's and McKenzie's are "rivers," into which "entry or passage by water or land out of the territories" actually granted may be found; though in such case the application for a license for the exclusive trade would, if the Charter be in this respect valid, have been unnecessary.

The French Government, it appears, would not agree to the proposal which would have limited them to the 49th parallel. Colonel Bladen, one of the British Commissioners under the Treaty of Utrecht, wrote from Paris in 1519 in reference thereto, "I already see some difficulty in the execution of this affair, there being at least the difference of two degrees between the best French maps and that which the Company delivered us." No settlement of the boundary could be arrived at.

If the later claim of territorial limits had been advanced during this negotiation, there can be no doubt it would have been resisted even more strenuously than the effort to make the 49th parallel the boundary was, not merely by contending that the territory so claimed formed part of Canada, and had been treated as such by the French long before 1670, but also that the French King had exercised an act of disposition of them, of the same nature as that under which the Hudson's Bay Company claim, by making them the



subject of a charter to a company under the *Sieur de Caen's* name, and after the dissolution of that Company had, in 1627, organized a new company, to which he conceded the entire country called Canada. And this was before the Treaty of St. Germain-en-Laye, by which the English restored Canada to the French. In 1663, this Company surrendered their Charter, and the King, by an edict of March in that year, established a council for the administration of affairs in the colony, and nominated a governor; and about 1665, Monsieur Talon, the intendant of Canada, despatched parties to penetrate into and explore the country to the west and north-west, and in 1671 he reported from Quebec that the "*Sieur du Lusson* is returned, after having advanced as far as 500 leagues from here, and planted the cross, and set up the King's arms in presence of 17 Indian nations assembled on the occasion from all parts, all of whom voluntarily submitted themselves to the dominion of His Majesty whom alone they regard as their sovereign protector.

The French kept continually advancing forts and trading posts in the country, which they claimed to be part of Canada: not merely up the Saguenay River towards James' Bay, but towards and into the territory now in question; in parts and places to which the Hudson's Bay Company had not penetrated when Canada was ceded to Great Britain in 1763, nor for many years afterwards.\* They had posts at Lake St. Anne, called by the older geographers Alenimipigon; at the Lake of the Woods; Lake Winnipeg; and two, it is believed, on the Saskatchewan, which are referred to by Sir Alexander M'Kenzie in his account of his discoveries.

Enough, it is hoped, has been stated to show that the limits of the Hudson's Bay Company's territory are as open to question now as they have ever been, and that when called upon to define them in the last century, they did not advance the claim now set up by them; and that even when they were defining the boundary which they desired to obtain under the Treaty of Utrecht, at a period most favourable for them, they designated one inconsistent with their present pretensions, and which, if it had been accepted by France, would have left no trifling portion of the territory as part of the province of Canada.

So far as has been ascertained, the claim to all the country the waters of which ran into Hudson's Bay, was not advanced until the time that the Company took the opinions of the late Sir Samuel Romilly, Messrs. Cruise, Holroyd, Scarlett, and Bell. Without presuming in the slightest degree to question the high authority of the eminent men above-named, it may be observed that Sir Arthur Pigott, Serjeant Spankie, Sir Vicary Gibbs, Mr. Bearcroft, and Mr. (now Lord) Brougham took a widely different view of the legal validity of the Charter, as well as regards the indefinite nature of the territorial grant, as in other important particulars.

Of the very serious bearing of this question on the interests of Canada, there can be no doubt. By the Act of 1774, the Province of Quebec is to "extend westward to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the Merchants' Adventurers of England, trading to Hudson's Bay."

And in the division of the Provinces under the statute of 1791, the line was declared to run due north from Lake Temiscamary "to the boundary line of Hudson's Bay;" and the Upper Province is declared to consist "of or include all that part of Canada lying to the westward and southward of the said line."

The union of the Provinces has given to Canada the boundaries which the two separate Provinces of Upper and Lower Canada had; the northern boundary being the territory granted to the Hudson's Bay Company.

It is now becoming of infinite importance to the Province of Canada, to know accurately where that boundary is. Plans for internal communication connected with schemes for agricultural settlements, and for opening new fields for commercial enterprise, are all, more or less, dependent upon or affected by this question, and it is to Her Majesty's Government alone that the people of Canada can look for a solution of it. The rights of the Hudson's Bay Company, whatever they may be, are derived from the Crown; the Province of Canada has its boundaries assigned by the same authority; and now that it

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\* In the evidence given by the Honourable Wm. M'Gillivray, on one of the North-west trials at York (now Toronto), in 1818, he stated that there were no Hudson's Bay traders established in the Indian country about Lake Winnipeg or the Red River for eight or nine years after he had been used (as a partner in the North-west Company) to trade in that country.

appears to be indispensable that those boundaries should be settled, and the true limits of Canada ascertained, it is to Her Majesty's Government that the Province appeals to take such steps as in its wisdom are deemed fitting or necessary to have this important question set at rest.

PAPER delivered to the House of Commons Committee by Chief Justice *Draper*, 28th [May, 1857, relative to CANADIAN BOUNDARIES.\*

*Boundaries.*

On the 25th January, 1696-7, not long before the Treaty of Ryswick (which was signed on the 20th September, 1697), the Hudson's Bay Company expressed their "desire that whenever there should be a treaty of peace between the Crowns of England and France, that the French may not travel or drive any trade beyond the midway betwixt Canada and Albany Fort, which we reckon to be within the bounds of our charter."

The 8th Article of the Treaty of Ryswick shows that the French at that time, set up a claim of right to Hudson's Bay, though that claim was abandoned at the peace of Utrecht, and was never set up afterwards.

In 1687, James the Second declared to the French Commissioners M.M. Barillon and Bonrepos, that having maturely considered his own right, and the rights of his subjects, to the whole Bay and Straits of Hudson, and having been also informed of the reasons alleged on the part of the French to justify their late proceedings in seizing these forts (Fort Nelson and Fort Charles), which for many years past have been possessed by the English, and in committing several other acts of hostility, to the very great damage of the English Company of Hudson's Bay, His Majesty, upon the whole matter, did consider the said Company well founded in their demands, and, therefore, did insist upon his own right and the right of his subjects to the whole Bay and Straits of Hudson, and to the sole trade thereof.

"The grants of the French King signify nothing to another prince his right, and they may name what they will in their grants, places, known or unknown, but nobody is so weak as to think that anything passeth by those grants but what the King is rightfully and truly possessed of or entitled to, for *nemo dat quod non habet* is a maxim understood of all; but whereas the French would have no bounds to Canada to the northward, nor, indeed, to any parts of their dominions in the world if they could."—Extract from the Reply of the Hudson's Bay Company to the French Answer left with the English Commissioners, 5th June, 1699, under Treaty of Ryswick.

In 1687 there were discussions between the English and French respecting the right to the Bay and Straits, in which it was, among other things, submitted on the part of the Hudson's Bay Company as follows: "It shall not be the fault of the Company of Hudson's Bay, if their agents and those of the Company of Canada do not keep within their respective bounds, the one pretending only to the trade of the Bay and Straits above-mentioned, whilst the other keeps to that of Canada; and that the forts, habitations, factories and establishments of the English Company be restored, and their limits made good, as the first discoverers, possessors and traders thither."

The Company having already waived the establishment of a right to Hudson's Bay and Straits "from the mere grant and concessions of the King, which, indeed, cannot operate to the prejudice of others that have the right of discovery and continued possession on their side, it is again averred that His Majesty's subjects only are possessed of such a right to the coasts, bays, and straits of Hudson."

"The Hudson's Bay Company having made out His Majesty's right and title to all the bay within Hudson's Straits, with the rivers, lakes and creeks therein, and the lands and territories thereto adjoining, in which is comprehended Port Nelson as part of the whole"—10th July, 1700,—the Hudson's Bay Company proposed the following limits between themselves and the French, in case of an exchange of places, and that they cannot obtain the whole of the Straits and Bay which of right belongs to them.

\* From Appendix to Report of Hudson's Bay Committee, p. 378.



1. That the French be limited not to trade nor build any factory, &c., beyond the bounds of 53° N. or Albany River, to the northward on the west or main coast, and beyond Rupert's River, to the northward on the east main coast.

2. The English shall be obliged not to trade nor build any factory, &c., beyond the aforesaid latitude of 53° or Albany River, or beyond Rupert's River, south-east towards Canada, on any land which belongs to the Hudson's Bay Company.

3. As likewise that neither the French nor English shall at any time hereafter extend their bounds contrary to the aforesaid limitations . . . . . which the French may very reasonably comply with, for that they by such limitations will have all the country south-eastward betwixt Albany Fort and Canada, to themselves, which is not only the best and most fertile part, but also a much larger tract of land than can be supposed to lie to the northward, and the Company deprived of that which was always their undoubted right.

By this document it appears the French were insisting on having the limits settled between York and Albany Fort, as in the latitude of 53° or thereabouts.

22 January, 1701-2.—The Lords of Trade and Plantations asked the Company to say "whether, in case the French cannot be prevailed with to consent to the settlement proposed on the 10th July preceding by the Company, they will not consent that the limits on the east side of the Bay be the latitude of 52½°." This proposal would have given the East Main River and Rupert's River to Canada.

On the 29th January, the Hudson's Bay Company alter their proposals, offering the boundary on the east main or coast, to be Hudson's River vulgarly called Canute or Canuse River (which I take to be the river now marked on the maps as the East Main River); but, they add, should the French refuse the limits now proposed by the Company, the Company think themselves not bound by this or any former concessions of the like nature, but must (as they have always done) insist upon their prior and undoubted right to the whole bay and Straits of Hudson, which the French never yet would strictly dispute, or suffer to be examined into (as knowing the weakness of their claim), though the first step in the 8th Article of the Treaty of Ryswick directs the doing of it. If either proposal had been accepted, the French would have had access to James' Bay. The first propositions left them the Moose River; the second appears to have given up Rupert's River.

In February, 1711-12, prior to the Treaty of Utrecht, the Hudson's Bay Company proposed that the limits between them and the French in Canada should begin "at Grim-mington's Island, or Cape Perdrix, in the latitude of 58½° north, which they desire may be the boundary between the English and French, on the coast of Labrador; towards Rupert's Land on the East Main, and Nova Britannica on the French River." That a line be drawn from Cape Perdrix to the Great Lake Mistassing, dividing the same into two parts, beyond which line the French were not to pass to the north, nor the English to the south.

In August, 1717, they renewed their application for the settlement of the limits, adding to their former proposition, that from the Lake Mistassing a line should run south-westward into 49° north latitude, and that such latitude be the limit, and that the French do not come to the north, or the English to the south of this boundary.

In August, 1719, in a memorial, they say, that "the surrender of the Straits and Bay aforesaid has been made according to the tenor of the treaty, at least in such manner that the Company acquiesced therein, and have nothing to object or desire further on that head." But they even then complained that since the conclusion of the peace, viz., in 1715, "the French had made a settlement at the head of Albany River, upon which very river our principal factory is settled, whereby they intercept the Indian trade from coming to the Company's factories; and will, in time, utterly ruin the trade, if not prevented. It is, therefore, proposed and desired, that a boundary or dividend line may be drawn so as to exclude the French from coming anywhere to the northward of the latitude of 49°, except on the coast of Labrador; unless this is done, the Company's factories at the bottom of Hudson's Bay cannot be secure, or their trade preserved." This shows that the Company there sought to establish an arbitrary boundary, and that the object of it was, to secure the fur trade from the French.

The English Commissioners made the demand to have limits established according to the prayer of the Hudson's Bay Company, and for the giving up the new fort erected by the French; adding a demand that the French should make no establishments

on any of the rivers which discharged themselves into Hudson's Bay ; and that the entire course of the navigation of these rivers should be left free to the Company, and to such of the Indians as desired to trade with them.

The precise terms of the instructions to the Commissioners hardly seem to have contemplated the latter part of the demand, for they (the instructions of 3rd September, 1719) merely designate the boundaries beyond which the French and English respectively are not to cross. They contain this passage, however : " But you are to take especial care in wording such articles as shall be agreed upon with the Commissioners of His Most Christian Majesty upon this head : that the said boundaries be understood to regard the trade of the Hudson's Bay Company only."

Colonel Bladen, on the 7th November, 1719, wrote to the Lords of Trade that the English Commissioners would that day deliver in the demand, and that he foresaw " some difficulty in the execution of this affair, there being at least the difference of two degrees between the best French maps and that which the Company delivered us, as your Lordship will perceive by the carte I send you forthwith."

Colonel Bladen was right. After receiving the English demands, the French Commissioners, the Marechal d'Estrees and the Abbé Dubois, never met the English Commissioners again, and all the instances of the English Ambassadors failed to procure a renewal of the conferences.

The Company was again called upon on the 25th July, 1750, to lay before the Lords of Trade an account of the limits and boundaries of the territory granted to them. They replied, among other things, that the said Straits and Bay " are now so well known, that it is apprehended they stand in no need of any particular description than by the chart or map herewith delivered ; and the limits or boundaries of the land and countries lying round the same, comprised, as your memorialists conceive, in the said grant, are as follows, that is to say : all the lands lying on the east side or coast of the said Bay, and extending to the Bay eastward to the Atlantic Ocean and Davis' Strait, and the line hereafter mentioned as the east and south-eastern boundaries of the said Company's territories ; and towards the north, all the lands that lie at the north end, or on the north side or coast of the said Bay, and extending from the Bay northwards to the utmost limits of the lands, then towards the North Pole ; but where or how these lands terminate is hitherto unknown. And towards the west, all the lands that lie on the west side or coast of the said Bay, and extending from the said Bay westward to the utmost limits of those lands ; but where or how these lands terminate to the westward is also unknown, though probably it will be found they terminate on the Great South Sea, and towards the south," they propose the line already set out by them, before and soon after the Treaty of Utrecht, stating that the commissioners under that treaty were never able to bring the settlement of the said limits to a final conclusion ; but they urged that the limits of the territories granted to them, and of the places appertaining to the French, should be settled upon the footing above mentioned.

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STATEMENT OF THE RIGHTS, AS TO TERRITORY, TRADE, TAXATION, AND GOVERNMENT, CLAIMED AND EXERCISED BY THE HUDSON'S BAY COMPANY ON THE CONTINENT OF NORTH AMERICA, 1850.\*

By the Charter of His Majesty King Charles the Second, dated 2nd May, 1670, by which the Hudson's Bay Company was constituted, His Majesty granted to the Company as follows :—

" We have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said Governor and Company, and their successors, the sole trade and commerce of all these seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that are not already actually possessed by or granted to any of our subjects, or pos-

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\* Appendix No. 17, Sess. Papers, Canada, vol. xv., No. 4, 1857.



essed by the subjects of any other Christian Prince or State, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes in the seas, bays, inlets and rivers within the premises, and the fish therein taken, together with the royalty of the sea upon the coasts within the limits aforesaid, and all mines royal, as well discovered as not discovered, of gold, silver, gems and precious stones, to be found or discovered within the territories, limits and places aforesaid, and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America, called 'Rupert's Land.' And further we do, by these presents, for us, our heirs and successors, make, create, and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises, saving always the faith, allegiance and sovereign dominion due to us, our heirs and successors, for the same to have, hold, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties and appurtenances whatsoever, to them the said Governor and Company, and their successors for ever, to be holden of us, our heirs and successors, as of our manor of East Greenwich, in our county of Kent, is free and common soccage, and not in capite or by Knight's service, yielding and paying yearly to us, our heirs and successors, for the same, two elks and two black beavers, whensoever and as often as we our heirs and successors, shall happen to enter into the said countries, territories and regions hereby granted."

Under this grant the Company have always claimed and exercised dominion as absolute proprietors of the soil in the territories understood to be embraced by the terms of the grant, and which are more particularly defined in the accompanying map; and they have also claimed and enjoyed the exclusive right of trading in those territories.

It may be right here to mention that although the original title to the territory and trade in question was derived under the Charter above referred to, the rights of the Company have, in various instances, received the recognition of the Legislature.

The Act 14, George 3, chap. 83, which is intituled, "An Act for making more effectual provision for the government of the Province of Quebec, in North America," in describing the boundaries of Canada, expressly refers to their lying "northward to the southern boundary of the territories granted to the Merchants Adventurers of England, trading into the Hudson's Bay;" thereby distinctly recognizing the existence of such a grant, and referring to the known boundary on the south of the territories so granted.

Again, an Act was passed in the 43rd year of the reign of George 3, c. 138, intituled "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces;" and this Act, having stated in the preamble that crimes committed in the Indian territories were not then cognizable by any jurisdiction whatsoever, declares that such crimes should be considered as if committed within the jurisdiction of the Canadian courts.

A doubt having arisen whether this provision extended to the territories possessed by the Hudson Bay Company, because, although they formed part of the Indian territories, crimes therein committed could not be said not to be cognizable by any jurisdiction whatsoever, inasmuch as the Hudson Bay Company had a distinct jurisdiction conferred upon it by its Charter, an Act was passed in the 1st and 2nd George IV, c. 66, intituled "An Act for regulating the Fur Trade, and establishing a Commercial and Civil jurisdiction within certain parts of North America," by which, after reciting that doubts had been entertained whether the provisions of the Act of George III. extended to the territories granted by charter to the Governor and Company of Adventurers of England trading into Hudson Bay, and that it was expedient that such doubts should be removed, and the said Act should be further extended, it was declared and enacted, that the provisions of the Act of 43 Geo. III. should be deemed and construed, "to extend to and over, and to be in full force in and through all the territories theretofore granted to the Hudson's Bay Company," thus again distinctly recognizing the existence of the grant of the soil, as well as the jurisdiction; for the Act contains an express reservation that nothing therein contained should affect the rights, privileges, authority or jurisdiction of the Hudson's Bay Company; and, in consequence, from that period, the Company and the Canadian Courts have exercised a concurrent jurisdiction as to offences committed within the territories of the Company. By this Act also, power was given to the

Crown to make, grant, or give licenses for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such grants or licenses not being part of the land and territories granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of the Crown provinces in North America, or of any lands or territories belonging to the United States of America.

By virtue of licenses granted under the powers of this Act, the Company are entitled to certain exclusive rights of trading beyond the limits of their own territories; but this Act is referred to here as distinctly recognizing the rights of the Company to exclusive trade within their own territories.

With regard to taxation and government, the Company under their Charter, are, invested with power "to make, ordain and constitute such and so many reasonable laws, constitutions, orders and ordinances as to them, or the greater part of them, being then and there present, shall seem necessary and convenient for the good government of the said Company, and of all governors of colonies, forts and plantations, factors, masters, mariners and other officers employed or to be employed in any of the territories and lands aforesaid, and in any of their voyages; and for the better advancement and continuance of the said trade or traffic and plantations, and the same laws, constitutions, orders and ordinances so made, to put in, use and execute accordingly, and at their pleasure to revoke and alter the same or any of them, as the occasion shall require: And it is provided that the said Governor and Company, so often as they shall make, ordain or establish any such laws, constitutions, orders and ordinances, in such form as aforesaid, shall and may lawfully impose, ordain, limit and provide such pains, penalties and punishment upon all offenders, contrary to such laws, constitutions, orders and ordinances, or any of them, as to the said Governor and Company for the time being, or the greater part of them, then and there being present (the said Governor or his Deputy being always one), shall seem necessary, requisite or convenient for the observation of the same laws, constitutions, orders and ordinances; and the same fines and amerciaments shall and may, by their officers and servants from time to time to be appointed for that purpose, levy, take and have, to the use of the said Governor and Company, and their successors, without the impediment of us, our heirs or successors, or of any of the officers or ministers of us, our heirs or successors, and without any account therefore to us, our heirs or successors, to be made so always as the said laws, constitutions, orders and ordinances, fines and amerciaments, be reasonable, and not contrary or repugnant, but as near as may be agreeable to the laws, statutes or customs of this our realm." And it is further provided, "that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any ports or places afore limited, shall be immediately and from henceforth under the power and command of the said Governor and Company, their successors and assigns; and the said Governor and Company are empowered to appoint and establish Governors and all other officers to govern them." And it is provided, "that the Governor and his Council of the several and respective places where the said Company shall have plantations, forts, fortifications, colonies or places of trade within any of the countries, lands or territories hereby granted, may have power to judge all persons belonging to the said Governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of this Kingdom, and to execute justice accordingly; and in case any crime or misdemeanor shall be committed in any of the said Company's plantations, forts, factories, or places of trade within the limits of the aforesaid, where judicature cannot be executed for want of a Governor and Council there, then in such case it shall and may be lawful for the chief Factor of that place and his Council to transmit the party, together with the offence, to such other plantation, factory or fort where there shall be a Governor and Council, where justice may be executed, or into this kingdom of England, as shall be thought most convenient, there to receive such punishment as the nature of his offence shall deserve."

In pursuance of the authority thus given, the Company have invariably exercised all the power of government necessary for the administration of justice in their territory, and for that purpose have appointed proper officers, who have acted judiciously in all matters arising therein.

As already observed, the Canadian Courts have now a concurrent jurisdiction with the Company.



It may be right here to refer to several Acts of the Legislature which have recognized the general rights and privileges claimed and exercised by the Company :—

An Act passed in the sixth year of the reign of Queen Anne, c. 37, intituled, "An Act for the Encouragement of the Trade to America," and this Act contains an express proviso, that "nothing therein contained shall extend or be construed to take away or prejudice any of the estates, rights or privileges of or belonging to the Governor and Company of Adventurers trading into Hudson's Bay."

In like manner, in 1745, when an Act was passed (18 Geo. 2, c. 17) for granting a reward for the discovery of a north-west passage through Hudson's Straits, it was expressly provided, that nothing therein contained should extend or be construed to take away or prejudice any of the estates, rights or privileges of or belonging to the Hudson's Bay Company.

No exact system of taxation has been claimed or exercised by the Company, and until a colony of resident settlers was established other than the Company's own servants, the Company defrayed the whole expenses of the government of their territories without the aid of any contribution whatever ; but since a colony was formed, it has been made a stipulation with the community, upon their becoming settlers, and receiving parcels of land, that they should contribute towards the expenses of the Government of the colony ; but the main charge has continued to be borne by the Company.

#### MEMORANDUM.\*

The Commissioner of Crown Lands submits the following remarks on the North-West Territories of Canada, Hudson's Bay, the Indian Territories, and the Questions of Boundary and Jurisdiction connected therewith, to accompany the other Documents :

The question now under special consideration has more particular reference to the subject of the renewal of a Lease held by the Hudson's Bay Company for the "*Indian Territories*," which are not considered to be within the boundaries of Canada, though subject to Canadian jurisdiction.

But the Hudson's Bay Company's "Map and Statement of Rights," under their original Charter, as submitted to the Imperial Government in 1850, by Sir J. H. Pelly, the Chairman of the Company, has also, however, to be considered in connection with it.

It becomes necessary, therefore, to expose the fallacies of the "Statement of Rights and Map" referred to, in order that the rights of the Province may not be misunderstood or the pretensions of the Company taken for granted.

The rights of the Hudson's Bay Company and the effect of their operations upon the interests of Canada, will best be considered under the following separate heads, viz. :

First—With respect to their operations under the original Charter on the territories affected thereby.

Second—With respect to their operations within the boundaries of this Province.

Third—With respect to their operations on what has been termed the Indian Territories, now under lease to them.

Fourth—Arising out of the foregoing, the more important question of the Boundaries of the above Territorial Divisions ; and

Fifth—With respect to jurisdiction as exercised and as sanctioned by law.

#### OPERATIONS OF THE COMPANY ON THEIR OWN TERRITORIES.

On the first head, as regards their operations under their Charter on the territories which, if valid, it would cover, it is a matter of very secondary importance to Canada. The territories of the Hudson's Bay Company, taken at the largest extent which any sound construction of their Charter in connection with international rights would warrant, if not in point of distance so very remote, are nevertheless so situated, that it can only be

\* Appendix No. 17, Sess. Papers, Canada, vol. xv., No. 4, 1857.

when all the localities to the south and west, more available for purposes of agriculture and settlement, have been filled to overflowing, that settlers may be gradually forced into that vicinity from the superabundant population of more favoured countries.

The most direct interest that Canada could have in the matter at the present moment, being responsible for the administration of justice there, would be rather of a moral and political than of an interested or commercial character. But as the necessities of the Company, in whose hands a monopoly of the trade has practically existed since the Treaty of Utrecht, together with the powers which they profess to derive from their Charter, has induced them to establish a jurisdiction which, for the moment, seems to have been successful in maintaining tranquility and order, Canada has had no special reason to intervene, though if any complaints had been made on this score she would of course have felt called upon to exercise the powers vested in her by Imperial Statutes.

It is not indeed to be denied that the freedom of the trade, consisting of furs and fisheries, would be of advantage to this country; but as this involves a question of the validity of the Charter, and whether or not, if valid in respect of the territory really affected by it, it would also affect the open sea of the Bay; and seeing that the question is not now raised of any further legislation to give effect to the powers it professes to confer, the consideration of this point is immaterial at the present moment compared with the more important subjects that have to be treated of.

#### OPERATIONS OF THE COMPANY ON CANADIAN TERRITORIES.

The second point to be taken into consideration, and which is of a more important nature, is that which affects the operations of the Company within the boundaries of Canada, and on this head it must be admitted that they have had every facility they could possibly enjoy in their own territories, if such exist: whether on the coasts of Labrador, Lakes Huron, Superior or Winnipeg; whether on the Saguenay, the St. Maurice, the Ottawa, the Red River, the Assiniboine or the Saskatchewan; wherever they have operated within the boundaries of Canada they have had precisely the same scope as within their own territories on the shores of Hudson's Bay: not indeed but what if opposition had sprung up, the same facilities must necessarily have been afforded to any rival traders, had they not been effectually protected from such rivalry by their unlimited means, their extensive ramifications and complete organization, with which no rival traders were able to compete, unless indeed to a very limited extent in the immediate vicinity of the settlements.

There are indeed parts of the Province so remote from established settlements, and having so little direct intercourse with them, that in former years it might have been to some extent a tax upon the country to have established tribunals sufficient to enforce the laws over regions inhabited only, with one exception, by the servants of the Company and the Indians, though it may now be reasonably questioned whether corresponding benefits would not have accrued from such a course, while it must be admitted that the Company have at all events reaped a profit, taking together the costs they have been put to from the want of legal tribunals and the monopoly of the trade which the non-organization of such tribunals has practically been the means of enabling them to enjoy.

The exception referred to, where a considerable settlement exists, besides the employees of the Company and the Indians, is the Red River Country.

But the time has passed when any considerations of expense or temporary inconvenience, even if proved to exist, can be allowed to stand in the way of opening up those territories, when indeed the necessity for expansion compels the Provincial Government to create further facilities for it; and as an additional reason why the Government should no longer permit the present state of things to continue, it must be added that rumours have been gaining ground of late years, with a force and clearness which almost compel conviction, that the jurisdiction actually exercised in those remote localities has been as contrary to the wishes of the people as it has been manifestly without the sanction of law, all which has created a necessity for early investigation and action on the part of the Canadian Government.

With this view preparations were made in the Crown Lands Department last summer for a preliminary survey from the head of Lake Superior westward, preparatory to the



opening of free grant roads, which have been so successful in other parts of the country, for the purpose of forming the nucleus of a settlement which would gradually penetrate to the valley of the Red River and the prairies beyond ; besides which, a first-class thoroughfare would be necessary to afford easier means of communication with the navigable waters flowing to the west, &c., to facilitate the administration of justice in the distant settlements, and the necessary intercourse generally between those parts and the more populous districts of the country, and which would at the same time throw open to emigration, agriculture and commerce a far larger area, with at least an equal average mildness of climate, and susceptible of more rapid development (a known characteristic of prairie countries) than all other parts of the Province heretofore rendered available for settlement.

The question of the renewal of the license of exclusive trade on the Indian Territories does not, of course, affect the country above referred to, any more than it does the lands, whatever they be—for they have never been defined upon authority—which the original Charter of the Hudson's Bay Company may, upon investigation, be construed to cover.

#### OPERATIONS OF THE COMPANY ON THE INDIAN TERRITORIES.

The third point is, for the moment, of less importance than the last, though within the period of another such lease as the Act 1 and 2 Geo. 4, cap. 66, authorises, as it would be impossible to calculate the immense influence it must have upon the future of this country, and the British institutions which have taken root so deeply and thrive so nobly on its soil. The present operations of the Hudson's Bay Company on these "Indian Territories" are conducted on the same principle precisely as within the boundaries of Canada, the jurisdiction they exercise having heretofore had the excuse of necessity, if not the sanction of law ; and so far as it can be shewn to have been exercised to the benefit of those countries, the Company might fairly claim indemnity for the consequences, should that become necessary, and there is no reason to doubt either the generosity or the justice of the Legislature if called upon to ratify such a measure.

It now becomes necessary, under the fourth head, to treat the questions of boundary arising out of the three foregoing ; and these questions have, heretofore, been so little understood, that it will be necessary to enter into the subject at some length.

The difficulty of describing definite boundaries in countries which at the time were but very imperfectly or partially known, has always been a matter of serious embarrassment. In the present instance, however, the difficulties can only be in matters of detail, and it may be safely assumed that they will be still further lessened by the fact, that wherever uncertainty can be supposed to prevail in any point of real importance, it can only be between the Province of Canada on the one hand, and the "Indian Territories" on the other (not between Canada and the Territories of the Hudson's Bay Company, unless at a point of comparatively little consequence) ; and it would be difficult to conceive that it could be adverse to the interests of the Crown or the community, if the principal question of boundary were sunk altogether, and the whole of the "Indian Territories" incorporated with this Province.

#### BOUNDARY OF THE COMPANY'S TERRITORIES UNDER CHARTER OF 1670.

In the first place, then, with respect to the Territory affected by the Charter of the Hudson's Bay Company, it may be admitted that it would not only be difficult but absolutely impossible to define it ; it is therefore fortunate that its limited extent renders the question of little importance further than that it becomes necessary to consider and rebut the very large pretensions of the Company.

The extent of the territory affected by the Charter is subject to two distinct conditions :

First—It is confined to all such territory as was then the property of the donor.

Second—It is confined to all such unknown territories as by the discoveries of the Company, his subjects, might become his property.

These distinctions, though not directly expressed, are nevertheless conditions resulting from the circumstances, and necessary to a proper understanding of the case.

With respect to the first, viz., the territory which was the property of the donor, it is necessarily limited by usage and by common sense to what was known or discovered, for the unknown and undiscovered could not be his property, and might never become his property, that being dependent upon circumstances then in the future: it is further limited by specific condition, expressed in the Charter itself, to such portions of what was then known as did not belong to any other Christian Prince, which condition, it must be admitted, was an acknowledgment on the part of the donor that some part of the territory he was describing was not his, and of doubt as to what did or did not belong to him.

With respect to the extent of territory that *might have been* affected by the second condition above stated (that is, as regards exclusive trade, the grant of soil being less extensive and more ambiguous), it has no particular limit, for it embraces all countries which could be reached either by "water or land" through Hudson's Straits, and to limit or extend it merely to the sources of rivers discharging into Hudson's Bay would be a construction which the Charter will in no sense admit of. But while it extends to all unknown Countries or infidel nations, which the Company could reach through Hudson's Straits or Bay, it is at the same time inferentially and *necessarily* restricted from extending to any of those unknown parts which might be first discovered and possessed by the subjects of any other Christian Prince or State. This is not indeed expressed in the Charter in relation to undiscovered territories, but it is emphatically so as regards the then state of the rights and possessions of Christian Powers. While the King therefore is so careful, at least in the wording of the document, not to infringe upon the rights of others *already acquired*, it can scarcely be supposed that he meant to infringe upon the rights of others *to acquire* what then belonged to none. The inference is altogether against the supposition that King Charles meant by his Charter to deny the right of any other civilized nation to make further discoveries and appropriate the countries discovered, and, even if he had so intended it, he had not the power to alter the law of nations in this respect. Besides, the Charter is expressly one of discovery as well as trade, &c.; the advantages granted to the "adventurers" are incidental and subordinate to that greater object, but there could be no *discovery* on their part wherever they were preceded by prior discovery and possession on the part of the subjects of any other Christian Prince. The right of discovery is and was so well established, and wherever considered of any importance, has been so jealously watched that volumes of diplomatic controversy have been written on single cases of dispute, and the King of Great Britain could not by his Charter annul the recognized law of nations, or limit in any degree the right of other States to discover and possess countries then unknown. It may even be considered extravagant to affirm that he could convey a right of property to territories *not then*, but which might *afterwards* become his or his successors' by the prior discovery and possession of the Company themselves, his subjects: were it necessary to dwell upon this point, it could easily be shown that most of the territories now claimed under the Charter which were not discovered at that date, the Company were not afterwards the first nor were any other British subjects the first discoverers of; that, in fact, except the Coppermine River, the Company never discovered anything or penetrated beyond the *Coasts and Confines* of the Bay (to which perhaps they at that time justly considered their rights restricted) for upwards of a hundred years after the date of their Charter, and that when they did so penetrate, the only *discovery* they made was that the whole country in the interior had been long in the peaceful possession of the subjects of another Christian Prince.

But the position as regards discovery after the date of the Charter, it is unnecessary to dwell upon, particularly as an adverse title can be proved prior to the date of the Charter, and that too, sanctioned by treaty.

The early discovery and occupation of the country in and about Hudson's Bay are, as in many other cases, shrouded in a good deal of obscurity. The British claim as the first discoverers of the whole coast of this part of North America, in the persons of John and Sebastian Cabot, about the year 1497; but it is contended on the other hand that their discoveries did not extend to the north of Newfoundland, which still retains the name they gave it, and which they supposed to form part of the main land. It is *said* indeed that the Cabots penetrated to a very high latitude far to the north of the Straits now bearing the name of



Hudson ; but it must be remarked that there appear to be no authentic records of the two voyages of the Cabots, their journals or observations. There appears to be only *hearsay* evidence of what they did, or where they went, told afterwards at second-hand to third parties. The voyages of the Cabots, therefore, although they are matters of history, not admitting of any reasonable doubt, in a general way, as to their having reached the coast of America, lose much of their force as the bases of specific territorial claims, from the want of any record of their proceedings. Did they ever land ? If so, where ? What observations did they make ? Did they take formal possession ? &c.

The French claim through Fishermen of Brittany who established fisheries on the coast as early as 1504, and through a map published by Jean Deny, of Honfleur, in 1506. The map would be valuable if any authentic copy of it be extant. There does not appear to be any such record of the operations of the Breton fishermen as would fix precisely the spot where their trade was carried on, though a British geographical work, published in 1671, with a map attached, fixes it at Hudson's Straits, naming the country after them, on the south side of the Straits and within the Bay. The next navigator through whom the French claim is maintained is John Verezzani, who visited the country by order of Francis the First of France, in 1523-4. This is the first voyage, in behalf of either France or England, of which any authentic or circumstantial record exists, as written by the navigator himself, who gave the country the name of New France. In 1534, Jacques Cartier's discoveries commenced, and these are so well known that it is unnecessary to say more of them.

Thus, then, it appears that Cabot's voyages, unsustained by any authentic record, affording no means of basing even a probable surmise as to whether so much as a landing was effected, formal possession taken, or any act done to constitute the assumption of sovereignty or of territorial dominion, comprise the only grounds on which England can base a claim to the country north of Newfoundland, prior to the voyage of Jacques Cartier. Apart, therefore, from the question of "*beneficial interests*" (to use the expression of a British diplomatist) which were acquired by France, commencing with the discoveries of Cartier, the preponderance of *admissible* evidence is altogether in favour of French discovery of that part of the continent between Newfoundland and Hudson's Bay. But even if the question rested altogether between the unauthenticated discoveries of the Cabots and the commencement of settlement by Cartier, it would not be inappropriate to assume the British view of a similar question as maintained in the Oregon dispute, in the following words ;

"In the first place, it is a circumstance not to be lost sight of, that it (the discovery by Gray) was not for several years followed up by any act which could give it value in a national point of view ; it was not in truth made known to the world either by the discoverer himself or by his Government."

The next English attempts at discovery commenced in 1553, when Willoughby penetrated to the North of Hudson's Bay, which, however, he did not discover or enter. This was nineteen years after Jacques Cartier's first voyage, and was followed by various other attempts at finding a north-west passage, all apparently directed to the north of Hudson's Straits, until 1610, the period of Hudson's voyage, in which he perished after wintering in the Bay which bears his name ; but by this time it must be observed that Canada was colonised by the French.

In 1540, De Roberval was made Viceroy of Canada, the description of which as given in his commission included Hudson's Bay, though not then of course known by that name.

L'Escarbot gives a full description of Canada at the period of De La Roche's appointment in 1598, as follows :

"Ainsi notre Nouvelle France a pour limites du côté d'ouest les terres jusqu'à la mer dite Pacifique au déca du tropique du cancer ; au midi les îles de la mer Atlantique du côté de Cuba et l'Isle Espagnole ; au levant la mer du nord, qui baigne la Nouvelle France ; et au Septentrion cette terre, que est dite inconnue, vers la mer glacée jusqu'au Pole Artique."

\* Therefore, New France has for boundaries on the west the Pacific Ocean within the Tropic of Cancer ; on the south the Islands of the Atlantic towards Cuba and the Spanish Island, or Hispanolia ; on the east the Northern Sea which washes its shores, embracing on the north the lands called Unknown, towards the frozen sea, up to the Arctic Pole.

Notwithstanding failures and difficulties, France continued the effort to colonise Canada, and in 1598 De La Roche was appointed Governor of the whole of Canada as above described : in 1603 or 1604 the first exclusive charter was granted for the fur trade of Canada up to the 54th degree of north latitude : in 1608 Champlain founded the City of Quebec, and in 1613 he accompanied his Indian allies, to the number of between two and three thousand, up the Ottawa and by Lake Nipissing and the French River, to war with a hostile nation at the Sault Ste. Marie. It must now be observed that the great incentive to the colonization of Canada was the enormous profits of the fur trade, without which it is scarcely likely that such persevering efforts would have been made for that purpose while so many countries with more genial climates remained in a manner unappropriated.

Tadouac, at the mouth of the Saguenay River, was the most important post established by the French on the St. Lawrence ; it was the entrepôt of the fur trade before Quebec was founded, and continued to be so afterwards. This will not be deemed extraordinary when it is considered that the Saguenay River afforded the best means of access into the interior, and was the best inland route, in fact is the best canoe route yet, to the Great Bay now bearing the name of Hudson. There is indeed no authentic record of any of the French having made an overland journey to the Bay at so early a period, but when it is considered at what an early date the *Coueurs des Bois* traversed the whole country in search of peltries, how readily they amalgamated with the Indians, who in that locality were in friendly alliance with them, and when it is also considered what extraordinary journeys the Indians undertook, as instanced by the war carried into the enemy's country at the Sault Ste. Marie, already referred to, the presumption is that the fur traders of Tadouac not only enjoyed the trade of the great bay, but must also have penetrated very far in that direction, if not to the Bay itself, a journey at the most of less distance and not greater difficulty than that which Champlain successfully accomplished with an army, while it had the strong incentive of profit to stimulate it. It is not necessary, however, to prove that every corner of the country known to the world as New France or Canada had been first visited by the actual possessors of the region so known.

However strong the probabilities, therefore, of the *Coueurs des Bois* having been in communication with the great northern Bay before the visit of Hudson in 1610, or of Button, who succeeded him in 1612, it is not necessary to base any argument thereon ; nor is it necessary to dwell on the reputed voyage of Jean Alphonse, of Saintonge, in 1545, which, although quoted by French historians, does not appear to be sufficiently authenticated. For, granting that the rights accruing from discovery resulted from the voyages of Hudson and Button, these discoveries were practically abandoned, in fact were never dreamt of being followed up by way of occupation, the finding of a north-west passage being their sole object ; but waiving even this point, it will be found that the rights of France were made good by international treaty long before the Charter of Charles the Second was granted.

It will be seen from L'Escarbot's description, and those contained in the commissions of the Governors already referred to, that France claimed the whole country extending to the north of Hudson's Bay, her title resting in the first instance upon the discoveries already mentioned, of which those of Verezani, Cartier, and Champlain are of unquestioned authenticity, to which they had added, when L'Escarbot wrote in 1611, the title resulting from actual possession in the shape of permanent settlement. England, on the other hand, claiming under Cabot's discovery, denied the right of France generally to the whole and practically to the more southerly parts where she endeavoured to plant settlements of her own, in which she was successful at a period somewhat later than the French. The fact is, each was trying to grasp more than they could take actual possession of ; and if mere discovery of parts of a continent without actual possession or settlement were made the basis of permanent rights, neither of the contending parties would perhaps have had any right at all. Gradually the state of the actual possessions of the two Powers settled down into a sort of intelligible shape, though without any very distinct boundaries, the most northerly of the English possessions being known as New England, and *all* the country to the north thereof being known as new France or Canada, where the French *only* were in possession, there being no possession or settlement of any kind to the north of them. Still, had England colonized Hudson's Bay at that period and been successful



in keeping actual possession of it, she would just have had the same right to do so that she had to colonize New England. That England persevered with extraordinary energy in trying to find a north-west passage there can be no doubt, nor does it appear that France, though publicly claiming the country, made any objection; but neither country made the most distant attempt at settlement or occupation of those remote and inhospitable regions at that period.

In 1615 another expedition was made into Hudson's Bay, in search of a north-west passage, by Baffin and Bylot. In 1627, the Quebec Fur Company was formed under the auspices of Cardinal Richelieu, and an exclusive Charter granted to them for the whole of New France or Canada, described as extending to the Arctic Circle. In 1629, Quebec was taken by the British, as were also most of the other principal towns founded by the French in Acadia and Nurembegia (now Nova Scotia and New Brunswick), which were then Provinces of New France, the two nations being then at war. In 1631, Fox and James, on two different expeditions, prosecuted a further search for a north-west passage in Hudson's Bay, and from the latter of these navigators the southerly portion of the Bay takes its name.

At this period the authenticated voyages of the English into Hudson's Bay were Hudson in 1610, Button in 1612, Bylot and Baffin in 1615, and Fox and James in 1631; the numerous other expeditions having been all apparently directed to the north of Hudson's Straits. At the same time the extent of New France or Canada, as claimed by the French, was publicly known throughout the civilized nations of Europe. It is not necessary to say that that claim was admitted by Great Britain; it is sufficient that it was known. British authorities even of a later period, it must be observed, have contended that the French were intruders in America altogether, in violation of the title accrued through the discoveries of the Cabots, and had no right whatever to any part of it *until acquired by treaty*. It therefore becomes immaterial whether the claims of the French were disputed or not, so far as they were afterwards confirmed or a title created by Treaty.

In 1632, peace was concluded, and by the Treaty of St. Germain-en-Laye, Canada or New France was relinquished to the French without any particular designation of its limits, and the British forces were to be withdrawn from the places they had taken, which being the most important, including the seat of government, might almost be said to have amounted to the conquest of the whole country.

Admitting, then, that but a disputed title of discovery had previously existed on either part—nay, admitting more, that the right vested by prior discovery was in England, this Treaty sets the matter at rest as regards all that was at that time called by the name of New France or Canada. There is indeed no getting behind this Treaty, of which the Charter afterwards granted by Charles the Second was in fact, but for the saving clause it contains, a violation, and Canada might well be content to rest her case here as against a Charter which, referring to a country previously guaranteed by the treaty to a foreign power, is expressly conditioned (as a Charter of discovery) not to interfere with what belonged to that other power. If, as is asserted by some English writers, France had no rights in America but such as she acquired by Treaty, what, it may be asked, were the limits of the territory she acquired by the Treaty of St. Germain-en-Laye, if not all that she claimed under the name of New France? It must be observed too that Champlain, the Viceroy of Canada, was made prisoner when Quebec was taken in 1629, and carried to England, where he remained for some time, and that the very year in which the Treaty was entered into, he published a work, containing a map of New France, by which Hudson's Bay was included in the country so called. Can it then for a moment be supposed, with Champlain, the Viceroy of New France, a prisoner in their hands, and their flag floating in triumph from the battlements of its capital, that the British Government and the Diplomats who negotiated the Treaty were ignorant of the meaning attached to the terms "Canada" or "New France," or could attach any other meaning to those terms than that which Champlain's published maps of a previous date indicated, and with which the descriptions of other French writers whose works were known throughout Europe coincided? Can it be supposed that in the negotiations preceding the Treaty, Champlain's views of the extent or boundaries of his Viceroyalty were wholly unknown, or that the British Diplomats meant something less by the appellation than

what was known to be understood by France? If, indeed, something less than the known extent of the country called New France had been agreed upon, some explanation would undoubtedly have been contained in the Treaty, or, if there had been any misunderstanding on the subject, the map which issued the same year, in Champlain's work of 1632, would at once have been made a cause of remonstrance, for, coming from the Chief Officer of the Colony, who was re-appointed to or continued in his office after the Peace, and published in Paris under the auspices of the King, it could not be otherwise looked upon than as an official declaration of the sense in which France regarded the Treaty.

Even, then, if the rights of France were wholly dependent upon international Treaties, her right became as good by the Treaty of St. Germain-en-Laye to the shores of Hudson's Bay as to the shores of the St. Lawrence. If she had rights before, the Treaty confirmed them; and if she had no rights before the Treaty created them; and in either case, the effect was as great in the one locality as the other. Every further step, however, in the history of the country will only tend to show that even if there had been no such treaty as that of St. Germain-en-Laye, the Charter could not be sustained in opposition to the rights of France.

The provisions of the Treaty of 1632 seem to have been respected for a period of 36 years, when in 1668 the next English expedition entered the Bay, which was the first *trading voyage* ever made by British subjects to the Bay, and which resulted in the formation of the Hudson's Bay Company and the grant of the Charter two years after. In saying that this was the first purely commercial enterprise of the British in Hudson's Bay, it is not meant to be implied that no trade was had with the Indians by those engaged in the former expeditions, but that such enterprises were undertaken with the definite object of reaching the Pacific, and without the least idea of any practical occupation of, or trade with the country.

The British having ceased any attempt upon Hudson's Bay from the time of Fox and James' voyages and the Treaty of St. Germain-en-Laye for a period of 36 years, it now remains to be seen what the character of their next attempt was, and what had been the circumstances of the country in the interim.

That the name of Canada or New France continued to attach to the whole country during that period is indisputable; the French published maps of these times leave no doubt upon the subject; and when we find the French not only designating the country by these names in their maps published by royal authority, but also entering upon the practical occupation of the since disputed parts of the country so designated, the carrying on of the trade with it both by sea and land, and the establishing of missions, all within the period intervening between the Treaty of St. Germain-en-Laye and the granting of the Charter, or the voyage which preceded the Charter, and all without interference on the part of Great Britain, we must conclude that the rights of the French were incontestable, and that if ever an adverse claim had been preferred it was considered to have been abrogated by the Treaty.

In 1656 the first exclusively commercial sea voyage was made into Hudson's Bay by Jean Bourdon, who found the trade in furs so profitable that others immediately followed. The first missionary establishment was made in 1663 by La Couture, who went overland by direction of D'Avaugour, Governor of Canada, who had been twice solicited by deputations of Indians from the Bay to send them missionaries; and now the French being fully established in the trade and in the occupation of the country both by sea and land, of the coast and of the interior, the English "Adventurers" first appear upon the scene, in a business way, under the countenance of two Canadians, De Grozelier and Radisson, who having been already engaged in the trade of the Bay, and having failed in procuring certain privileges they desired from their own Government, went to England and induced some Englishmen to join them in a trading voyage in 1668, which was so successful that, as already stated, it resulted in the formation of a Company, and the grant in 1670 of one of those extraordinary Charters which were so much in vogue in those days that the whole of the Continent of America, north of the Gulf of Mexico, known and unknown, may be said to have been covered by them, and some of it doubly so, if the vague and ambiguous descriptions, of which this was the most vague, could be said to mean anything.

This was the origin of the Hudson's Bay Company, and they immediately commenced to build forts and establish themselves in the trade, but no sooner was this known in



France than orders were given to expel them. Accordingly a desultory warfare was kept up for a number of years between the Canadian traders and the Company, in which the latter were nearly expelled, but again recovered themselves and strengthened their position, when it became necessary to take more effective means for their expulsion. Troops were accordingly despatched from Quebec overland for that purpose, under the Chevalier De Troyes, who commenced his work very effectually by taking the principal Forts of the Company. It must be observed, that this was in 1686, in time of peace between Great Britain and France, and yet these proceedings were not made a cause of war, which in itself would strongly imply an admitted right on the part of France to extirpate the Company as trespassers upon her territory.

War having afterwards broken out, the Forts on Hudson's Bay were successively taken and retaken, till the Peace of Ryswick, in 1697, put a stop to hostilities, at which time the British appear to have been possessed of Fort Albany *only*, the Canadians having possession of all the other establishments and the trade of the Bay.

By the Treaty of Ryswick, Great Britain and France were respectively to deliver up to each other generally whatever possessions either held before the outbreak of the war, and it was specially provided that this should be applicable to the places in Hudson's Bay taken by the French during the peace which preceded the war, which, though retaken by the British during the war, were to be given up to the French. There could scarcely be a stronger acknowledgment of the right of France to expel the Company as trespassers upon her soil, for it is impossible to construe the Treaty in this particular otherwise than as a justification of the act.

Moreover, commissioners were to be appointed in pursuance of the Treaty to determine the rights and pretensions which either nation had to the places in Hudson's Bay. Had these commissioners ever met, of which there appears to be no record, there might have been a decision that would have set the question at rest as to which were "*rights*" and which were "*pretensions*." The commissioners must, however, have been bound by the text of the Treaty wherever it was explicit. They *might* have decided that France had a right to the whole, but they could *not* have decided that Great Britain had a right to the whole. They would have been compelled to make over to France all the places she took during the peace which preceded the war, for in that the Treaty left them no discretion. The following are the words of the Treaty: "But the possession of those places which were taken by the French, during the peace that preceded this present war, and were retaken by the English during the war, shall be left to the French by virtue of the foregoing article." Thus the Treaty of Ryswick recognised and confirmed the right of France to certain places in Hudson's Bay distinctly and definitely, but recognised no right at all on the part of Great Britain; it merely provided a tribunal to try whether she had any or not.

So strongly has the Treaty of Ryswick been interpreted in favour of France in this particular, that some historians merely state the fact, that by it she retained all Hudson's Bay, and the places of which she was in possession at the beginning of the war.

The commissioners having apparently never met to try the question of right, things remained *in statu quo*, and the most reliable accounts show that the Hudson's Bay Company retained possession of Fort Albany *only* from that time up to the Treaty of Utrecht in 1713. Now, whatever the commissioners might have done, had they ever passed judgment on the cause the Treaty provided they should try, they could not have given Fort Albany to the British, for it was one of the places taken by the French during the preceding peace and retaken by the British during the war, and therefore adjudged in direct terms of the Treaty to France.

Thus then it will be seen, that the only possession held by the Hudson's Bay Company during the sixteen years that intervened between the Treaty of Ryswick and the Treaty of Utrecht was one to which they had no right, and which the obligations of the Treaty required should be given up to France.

Here, therefore, for the second time an International Treaty interposes a barrier against the pretensions of the Company.

By the Treaty of Utrecht in 1713, the whole of the Hudson's Bay was ceded to Great Britain without any distinct definition of boundaries, for the determining of which commissioners were to be appointed. No official statement of the action of such com-

missioners is at present available for reference, but it is stated that no such action threw any additional light upon the subject. Indeed no such Commissions ever have done much to determine boundaries in unexplored countries, as witness for instance the dispute so long pending on what was called the North Eastern boundary question between Great Britain and the United States, which was finally compromised by the Treaty of Washington, concluded by Lord Ashburton; and again the difficulties arising out of the same ambiguous description, and which so many Commissions endeavoured in vain to settle between the Provinces of Canada and New Brunswick.

There is no denying the fact that the ancient boundaries of Canada or New France were circumscribed by the Treaty of Utrecht, and it is difficult to determine precisely the new boundaries assigned to it. The general interpretation adopted by the British geographers, as the country gradually became better known from that time up to the final cession of Canada, was that the boundary ran along the high lands separating the waters that discharge into the St. Lawrence from those that discharge into Hudson's Bay to the sources of the Nipigon River, and thence along the northerly division of the same range of high lands dividing the waters flowing direct to Hudson's Bay from those flowing into Lake Winnipeg and crossing the Nelson, or rather (as it was then known) the Bourbon River, about midway between the said Lake and Bay, thence passing to the west and north by the sources of Churchill River, &c., no westerly boundary being anywhere assigned to Canada. It may indeed be held doubtful whether the terms in which Hudson's Bay was ceded could possibly be interpreted to mean more than the Bay and its immediate environs, but whatever the legitimate interpretation of the Treaty, the actual *acceptation* of it gave to France *at least* all to the south of the dividing high lands above described, for she remained in undisputed possession thereof until the final cession of Canada in 1763; while on the other hand the acceptance of it on the part of Great Britain, as proved by the same test of occupation, confined her at least to the north of the said high lands, if not to the very shore of the Bay, beyond which her actual possession never extended.

It must here be observed, however, that the Treaty of Utrecht conferred nothing upon the *Hudson's Bay Company*. It gave them nothing that was not theirs at the Treaty of Ryswick, and the Treaty of Ryswick gave them nothing that was not theirs before. The Charter obtained from King Charles the Second may have granted all that was his (if anything) to grant in 1670, but it would have required a new Charter to have granted what France ceded to Great Britain forty-three years afterwards. No doubt the Treaty of Utrecht had this important bearing upon the Company, that although it conferred no territorial rights upon them, the territory it conferred on Great Britain was then inaccessible to British subjects by any other route than through the Bay and Straits of Hudson, over which (if over anything) the Company's Charter gave exclusive control, and over which, whether rightfully or wrongfully, they have exercised such control.

Matters continued in this state as regards the territorial rights of Great Britain and France for 50 years more, when Canada was ceded to Great Britain by the Treaty of Paris in 1763. During this period the Hudson's Bay Company occupied the posts on the coasts of the Bay, *and these only*, having made no attempt to penetrate into the interior or occupy even what the *British Geographers* of the time construed the Treaty of Utrecht as conferring, not upon the Company, but upon Great Britain; while on the other hand the French had covered that part of New France which still remained to them (according to the British authorities) with posts or forts from the Lake of the Woods to the lower end of Lake Winnipeg, and remained in peaceable possession thereof, and in the most active prosecution of the trade until the whole country was given up to the British by the Peace of Paris, in 1763; by which, however, nothing was conferred upon the Hudson's Bay Company any more than there had been by the Treaty of Utrecht, the rights acquired by these treaties being simply in common with other British subjects.

For a few years, about the time of the transfer of Canada from French to British dominion, the trade of the western territories languished, from a very natural want of confidence on the part of the Canadians by whom it had, up to that time, been carried on, and who now owed a new allegiance and had to seek a new market for the produce of their industry; but a fresh impulse was soon given to it, first by separate individuals, then by small companies, and finally by the great North-west Company of Montreal, who not only spread their operations over all the territories formerly possessed by the French,



but explored new countries to the north and west, while the Hudson's Bay Company had not yet made a single establishment beyond the immediate confines of the sea coast.

The temporary depression of the fur trade at the period of the transfer of Canada to British dominion was of course advantageous to the Hudson's Bay Company, for the Indians inhabiting those parts of Canada where the French posts were established around Lake Winnipeg and its tributaries, would naturally seek a market in Hudson's Bay during the comparative cessation of demand at the establishments in their midst. But when confidence was restored and a new impulse was given to the trade in the north-west of Canada, the supply was again cut off from Hudson's Bay, and now the Company *for the first time* entered into competition with the Canadian traders *in the interior*, where their first establishment was made in 1774. And why, it may be asked, did not the Hudson's Bay Company oppose the French Canadians in the interior a few years earlier, as well as they opposed them (principally the same people) now that they had become British subjects? The answer is very simple. During French dominion they could not do it because the country belonged to France, but by the cession of the country to Great Britain, the Company had acquired the same right as any other British subjects to trade in it, and they availed themselves of that right accordingly.

From this period an active competition was carried on between these companies, but the Canadian North-west Company were everywhere in advance of their rivals. They were the first to spread themselves beyond the limits of the French, over the prairies of the Saskatchewan; they were the first to discover the great river of the north, now bearing the name of McKenzie, and pursue its course to its discharge in the Frozen Ocean; they were the first to penetrate the passes of the Northern Cordilleras and plant their posts upon the shores of the Pacific; and with such indomitable energy did they carry on their business, that, at the period of Lord Selkirk's interference, they had upwards of 300 Canadians, "*Voyageurs*," employed in carrying on their trade to the west of the Rocky Mountains.

It would be a useless task now to enter into a detail of the attempt made by the Earl of Selkirk, as a partner of the Hudson's Bay Company, to ruin their opponents. It is only necessary to refer to it here as the first endeavour made to exercise the privileges contended for under the Charter over those territories which had not been acquired by Great Britain till the conquest or cession of Canada. Lord Selkirk having become the principal partner and acquired a predominant influence in the affairs of the Hudson's Bay Company, it was determined to assert the assumed privileges of the Company to an extent never before attempted, and for this purpose a grant of the country on the Red River was made to his lordship, who commenced in 1811-12 to plant a colony there.\* A Governor was appointed, the colonists and the servants of the Company were armed and drilled, and in 1814 the claims of the Company to soil, jurisdiction and exclusive trade were openly asserted, and for the first time attempted to be enforced by the actual expulsion of the North-west Company, several of whose forts were surprised and taken, their people being made prisoners, their goods seized, and the channel of their trade obstructed by the interception of their supplies. Overawed somewhat for the moment by this bold assumption of authority, the Canadian Company appear to have avoided the contest, but when forced into it they proved the stronger: the Governor was killed in leading an attack upon a party of the North-west Company who turned and gave battle, and the colony was dispersed. This final catastrophe occurred in the spring of 1816, while in the meantime Lord Selkirk was organizing a more formidable force than had hitherto taken the field. Having procured a commission of the peace from the Government of Canada, he engaged a large force of the disbanded DeMeuron soldiers, equipped them in military style, procured arms, ammunition, artillery even, and started for the interior.

It must be allowed that it was a somewhat anomalous course for the Government of Canada to have pursued to permit such a force to be organised; but when it is considered that great ignorance prevailed as to the state of those remote localities, that it

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\* "Who have been the aggressors in their different quarrels, I am not able to determine; however, previous to 1811, at which time Lord Selkirk became connected with the company trading to Hudson's Bay, and sent settlers from Europe to that country, no great differences existed between the servants of that Company and the fur traders of Canada. There might be difficulties between different posts, but seldom attended with serious consequences."—Despatch of Lieutenant-Governor Gore to Earl Bathurst, 9th September, 1816.

was known that there had been disturbances and bloodshed the previous year; when also Lord Selkirk's position is considered, and that he went as a pacificator professedly to maintain peace, it may not be deemed so extraordinary that so much confidence should have been placed in him, for he was even granted a sergeant's guard of regular troops. It is not the object here, however, to enter into a discussion of the unfortunate occurrences of that period, or the particular action of the provincial government; and the circumstances are only referred to, to show that Canada actually exercised the jurisdiction, that Lord Selkirk's destination was the Red River Colony, and that he deemed it necessary to fortify himself doubly with commissions as a Canadian magistrate, first for Canadian territory, and second (under 43 Geo. 3rd) for the "*Indian territories*," so that those who resisted his authority on the ground that they were in Canada, he could judge under the one commission, and those who resisted on the ground that they were in the Indian territories, he could judge under the other, while the judicial and governmental attributes claimed for the Company would have served as a third basis of operations; and thus with the actual force at his disposal there was a pretty fair prospect of the Hudson's Bay Company being made absolute masters of the north-west country.

At the Sault Ste. Marie, however, Lord Selkirk met intelligence of the death of Governor Semple and the dispersion of his colony; nevertheless he still proceeded with his force as far as Fort William, on Lake Superior, where he arrived about the 11th of August, 1816, and soon after arrested the partners of the North-West Company, who were there at the time, and took possession of the whole establishment, including the merchandise and stores of the Company. The course pursued on this occasion, as appears by documents published at the time, shews the character of the pretensions set up at that period—pretensions which were then and not till then presumed upon.

It will be observed that Fort William was the principal depot of the Canadian merchants, through which all their supplies for and peltries from the north-west had to pass. By seizing on this point therefore Lord Selkirk had possession of the key of their whole trade, and was enabled to permit or refuse the transit of their goods as he saw fit. For whatever purpose, therefore, he obtained his two commissions of the peace in Canada, the expedition simply resolved itself into a continuation of the attempt to destroy the North-west Company of Canada, the rivals in trade of the Hudson's Bay Company, for, however desirable it might be to arrest and bring to trial all parties implicated on either side in the death of Governor Semple, there could be no excuse for seizing the persons of those gentlemen who were known not to have been at the time within hundreds of miles of the scene of that catastrophe, merely because they were partners in the North-west Company, nor, even if there were cause for their arrest, did that justify the taking possession of their property without the sanction or the form of law.\*

The object of entering upon this brief record is, to point out that all this occurred at *Fort William*, on the shores of Lake Superior, within what the Hudson's Bay Company, by their map and statement of "rights," now admit to be within the boundaries of Canada. And thus it will be seen that, while the pretension of extending the privileges of the Charter beyond the "coasts and confines" of the bay to the western territories of Canada, was a mere invention of that period, to further their own ends and to destroy the rival company of Canada, they were as ready to employ force at *Fort William* as in the valley of the Red River.

In further proof that the transactions at *Fort William* were openly done in violation of Canadian law and in defiance of Canadian authority, it is only necessary to add that when Lord Selkirk's proceedings became known, warrants were issued for his apprehension and a party of constables sent to arrest him, and that refusing obedience to the laws of this country and presuming upon the force for the moment at his command in that remote locality (remote *then* as regards the *time* it took to reach it, though at our doors to-day), he caused the constables to be taken prisoners themselves, and treated the Deputy Sheriff of the western district, who afterwards made the attempt, in like manner.

This war between the Companies, though injurious to both, failed to exterminate either,

\* "From these Documents it appears, that the Earl of Selkirk, acting in his own cause, aided by an armed force, has not only made the Partners of the North-west Company prisoners, but has also seized their Papers and Property."—*Lieut. Gov. Gore to Earl Bathurst, 9th Sept., 1816.*



and the final result was a compromise by which they entered into partnership ; and thus the trade has been carried on since, under the name indeed of the Hudson's Bay Company, but *expressly* in conjunction with the North-west Company of Canada, so that Canada can at no time be said to have been out of possession of her western territories within the limits occupied by the French at the time of the conquest, nor out of possession of the "Indian Territories" beyond, which, after the conquest, were first discovered by the Canadian traders, and for which the license of exclusive trade was granted to the partners of the North-west Company of Canada, as such, in conjunction with the Hudson's Bay Company.

It is true that after the amalgamation of the Companies and the license of exclusive trade granted in 1821, competition became *illegal* in the "*Indian Territories*," beyond the boundaries of Canada, as indeed it had always proved *impracticable* on the part of minor traders either within or beyond the remote parts of the province, small traders being altogether unable to cope with the two great Companies. It is true also that after they, the two great Companies, had been for some time united, and when by the policy pursued by them the trade had ceased to be beneficial to, and had been lost sight of in, Canada, an arrangement was effected between the two sections of the united Company by which the name of the North-west Company was dropped entirely, the lease relinquished, and a new one obtained in which the name of the Hudson's Bay Company alone appeared ; but it must be observed that this new arrangement was accepted and entered into by the British government by consent of the partners representing the original Canadian Company, for although this lease or license only affects the Indian Territories beyond the actual boundaries of Canada, it can scarcely be supposed that the government would have agreed to give it, had Canadian traders still remained in the field. The policy of the Companies, when joined, has however been so far successful that they have managed heretofore to secure themselves against opposition, many no doubt being imposed upon by the pretentious but erroneous construction put upon their Charter, and the public in general kept in the dark respecting a trade which, though partly carried on in the very centre of Canada and within range of steam navigation, is so managed as to pass by a circuitous route, by means of the primitive canoe and over portages on men's backs, away hundreds of miles into the interior and round by Hudson's Bay.

But the time has come when Canada must assert her rights, not only from that necessity for expansion which her growing population and trade require, but also because if she does not now begin to provide for the future by opening up her remote territories to colonisation, and securing the loyalty and attachment of the people by extending to them the rights and privileges of her laws and institutions, there is a moral certainty that a power far more formidable than the Hudson's Bay Company must in a very short period acquire the actual possession of those countries.

The brief chronological sketch of the history of the Company and of the circumstances connected therewith, must sufficiently shew that they have acquired no territorial grant whatever under either of the two conditions stated to which their Charter was subject ; first as regards the countries then known upon the "coasts and confines" of Hudson's Bay, because they were already in the possession of the subjects of another Christian Prince, and were therefore excluded from the grant in terms of the Charter itself ; and second, as regards discoveries, because when they first penetrated into the interior, 104 years after the date of their Charter, they found the country and a long-established trade in the hands of others—unless indeed as regards some discoveries to the north, which are of no special importance to Canada, such as the Copper Mine River, discovered by Hearne under the auspices of the Company.

Under the first head the most sanguine advocate of the Company, upon a full investigation of all the circumstances, could only urge on their behalf a claim to certain points, or stations, on the sea coasts of the bay, and even to these a doubtful and disputed title.

The high legal authorities that may be quoted in favour of the claims of the Company cannot be held as of weight against the conclusions inevitably resulting from a fuller investigation of the subject, inasmuch as they are merely opinions *upon the cases submitted*. The latest opinion given upon the subject is that of Sir John Jervis and Sir John Romilly in their letter to Earl Grey, of January, 1850, in which they give it as their opinion, "That the rights claimed by the Company do properly belong to them." Before arriving at this conclusion, however, these learned gentlemen are careful to specify precisely what papers they had then under consideration, and to which alone they refer as the basis of their opinion. These papers were simply the "*Statement of Rights and the Map*," submitted by the chairman of the Company, Sir J. H. Pelly.

This opinion, therefore, can only be taken as affirmative of the power of the King to grant such rights and privileges as the Charter specifies, and that the Charter would cover all the territory claimed; but the question of whether that territory belonged to the King to grant was not before them. With respect to the territory which the wording of the Charter would cover, it would be difficult to say what it would not cover; and with respect to the validity of the grant of such powers, it is to be remarked that very high authorities have given a directly opposite opinion; and it may be asked why, if the Charter was valid, did the Company procure an Act of Parliament to confirm it in 1690, and why when that Act expired, which was limited to seven years, did they again ask for an Act to continue it? It is worthy of notice, too, that the seven years' Act was passed during war with France, when it appears that Parliament did not scruple to grant or confirm a Charter for countries to which Great Britain had, at best, but a disputed title, based only upon a very partial, and, even during peace, a very precarious possession: nor is it less worthy of remark, that, when Parliament refused to re-grant or continue the Charter the Treaty of Ryswick had intervened, by which the rights of France were recognised, and those of Great Britain left, at most, in doubt, and when, therefore, any such Act would have been a direct violation of an international Treaty.

Another opinion appears to have been obtained by the Hudson's Bay Company at an earlier period, from Romilly, Holroyd, Cruse, Scarlett and Bell, equally upon the case drawn and without reference to the real points at issue, merely affirming that the grant of the soil contained in the Charter is good, and that it will include all the countries the waters of which flow into Hudson's Bay. This opinion is, therefore, like the other, of no weight on questions which were not before the learned gentlemen who gave it.

Opposite opinions were obtained at an earlier period by the North-west Company, viz., in 1804, from Sir V. Gibbs and Mr. Bearcroft. These opinions, however, although they touched the fundamental principles of the Charter, had no reference to the interior countries on the Red River, Lake Winnipeg, the Saskatchewan, &c., for the simple reason that no opinion was asked on a case which only arose six or seven years later, when Lord Selkirk came on the field.

The position of the question at this period was that the North-west Company, being in possession not only of all the country formerly possessed by the Canadian-French in that direction, but also of the country first discovered by themselves, to the north-west of Churchill River, came to the conclusion that their trade could be more conveniently carried on with these more remote parts through Hudson's Bay than through Canada. The question they submitted therefore was solely in regard to the validity of the Charter in respect of the navigation, trade, and fisheries of the Bay itself. The North-west Company as little dreamt of asking an opinion respecting the legality of their trade in the interior as the Hudson's Bay Company thought, at that period, of attempting its forcible restraint. In the case put it is to be remarked that no reference is made to the early possessions of the French on the coasts of the bay, and consequent possession of the bay itself in communicating therewith, and yet, and even without this, these opinions are entirely adverse to the exclusive privileges claimed under the Charter.

After the difficulties occasioned by the more recent assumption of power in virtue of the Charter to expel the North-west Company from the Red River country, under the auspices of Lord Selkirk, had become serious, another opinion was obtained by that Company in 1816, from Sir Arthur Pigott, Sergeant Spankie and Lord Brougham. This opinion must be held to be more valuable than those obtained by the Hudson's Bay Company, inasmuch as it enters more into the merits of the case, and is therefore more explicit as to the real views of the learned counsel on the subject submitted to them, whereas the opposite opinions are such as the gentlemen who gave them would be at liberty to ignore upon a fuller submission of the case, without incurring a charge of inconsistency.

The opinion under consideration is very decided on the point that the Red River and Saskatchewan countries are not within the limits of the Charter, even upon the merits of the description contained in the Charter itself, apart from the question of prior possession by another State. The question of prior occupation of these localities by the French is indeed lightly touched upon, though the opinion, as above, is definitely given without it; but the rights of Canada now for the first time fully discussed, based on prior discovery, at least of the whole of the interior, prior occupation on the shores of the bay itself, and



international treaties, do not appear to have ever been pronounced upon by any of those high legal authorities who have heretofore been consulted, because no such case has ever been submitted ; and yet, based upon history and facts it may be taken to supersede all necessity for raising any question as to the extent of the royal prerogative in giving validity to such a Charter.

Had the Hudson's Bay Company indeed deemed their position good in law, as against the North-west Company, in respect of the Red River country, it can scarcely be supposed that they would have resorted to force at such a lavish expense (and it must be added, involving no small amount of bloodshed) when the question could have been so easily determined by the legal tribunals, at an expense altogether inconsiderable as compared with the actual losses and costs incurred. They have indeed attempted to shew that they had not an equal chance with their rivals in the courts of this Province ; but not to speak of the injustice of such an insinuation in itself, the objection is untenable while *they had the right of appeal*, and to suppose that they were deterred from taking such a course from any difficulty attending the proceeding would be simply absurd, when we find them organising an *army* to defend their claims in those remote localities, and thus voluntarily removing the venue from the courts of law, by a far more difficult and expensive process, to the arbitrament of force, where the interference of law could not be so readily invoked to check their proceedings.

And if any justification of this course could be based on the supposed validity of their Charter, on the ground that it could be construed to cover that locality, why, when they failed to maintain their position by force, when the North-west Company, even after the temporary interruption of their trade through the seizure of Fort William by Lord Selkirk, still continued in the ascendant, why did they not then resort to a trial at law, which, if it had resulted in their favour, would at once have secured a power exactly commensurate with the emergency to maintain their rights ? for then, if the civil power had proved insufficient, the whole power of the empire would have been available as far as necessary. But instead of trying the issue in a Court of Law they finally amalgamated with their rivals, affording thereby a clear proof that they had no hope of being able to treat them otherwise than as possessing equal rights, thus consenting to their opponents sharing with them what they had previously contended to be their private property.

To conclude the question of the Hudson's Bay Company's territories under their Charter, therefore, it is difficult to arrive at the result that they have any territorial rights at all, for in the first place the country was practically occupied by the French before the date of the Charter and consequently excluded from it ; and in the second place, because the whole country, including Hudson's Bay, was known as New France or Canada, as per maps and descriptions publicly known throughout Europe previous to that date, and therefore, if not so before, became the property of France by the Treaty of St. Germain-en-Laye, in 1632, and as such *necessarily could not be and expressly was not* granted by their Charter ; and in the third place, because by the Treaty of Ryswick the right of France to expel them as trespassers on her soil was manifestly admitted. And finally, even assuming that Great Britain originally had acquired a divided right with France, each to the extent of the establishments which their subjects respectively were the first to form, the Hudson's Bay Company would only have a right, under their Charter, to those particular posts, or forts, which they were the first to take possession of in localities previously unoccupied, for the Treaty of Ryswick conferred nothing upon them (if it even permitted them to retain anything, which is doubtful) ; the Treaty of Utrecht, although it gave Hudson's Bay to the British, conferred nothing upon the Company, apart from other British subjects ; and the Treaty of Paris (although it gave Canada to Great Britain) conferred nothing upon them, except rights in common with other British subjects ; while until eleven years after the last named treaty they never occupied anything beyond their original establishments on the coast, and those (also on the coast) conquered from or ceded by France at the Treaty of Utrecht, but which could not, by such subsequent conquest, or cession, be made subject to their Charter.

#### BOUNDARIES OF CANADA.

Having thus disposed of the boundaries of the Hudson's Bay Company's Territories—if such can be said to exist—the boundaries of Canada next come to be considered, and

a division of the subject will naturally suggest itself into two heads. First, the original boundaries of Canada as acquired under the French; and second, the boundaries of Canada as acquired by Great Britain in 1763. The southerly boundaries, when not affecting the present question, need not of course be particularly referred to.

It will not be necessary to enter at length into the question of the original boundaries under the French, as they have already been sufficiently indicated. They *claimed* all to the north of the St. Lawrence, and were the first to *occupy* Hudson's Bay. If the British, besides their visits in search of a north-west passage, had seen fit to occupy the country for any practical purpose and been the first to do so, they might no doubt have claimed it for their own. Had any such actual occupation followed the voyages of Hudson and But-ton, notwithstanding the French footing on and claim to the whole continent north of the St. Lawrence, it must be admitted that a valid title would have been created. But when such occupation was only first attempted some fifty or sixty years later, in support of a commercial project of two Frenchmen, who had been already engaged in the trade, and when France was in formal and actual possession, it cannot be denied that the French title was the preferable one. Of the original territories of Canada, Great Britain therefore acquired a part by the Treaty of Utrecht, the residue remaining to France for fifty years later. On this head there seems to be no dispute, for British authorities designate a part of what they claim to have been acquired by that treaty as Canada.

It now remains to be considered what were the boundaries of the country finally acquired by the Treaty of 1763, which, according to French and other authorities, was much larger than according to British authorities; but it will perhaps be most satisfactory for the present to adopt the latter.

One of the most circumstantial British accounts of the westerly possessions of the French is to be found in a geographical and historical work published by Thos. Jefferys in 1760. After giving the French account of Canada, he proceeds to give the English version of its boundaries in the following words:—

"Canada, according to the English account, is bounded on the north by the high lands which separate it from the country about Hudson's Bay, Labrador or New Briton, and the country of the Eskimeaux and the Christeneaux; on the east side by the River St. Lawrence; and on the south by the Outawais River, the country of the Six Nations and Louisiana, *its limits towards the west extending over countries and nations hitherto undiscovered.*"

The high lands referred to in the above are distinctly delineated on the maps published with the work as the northerly section of the range which, dividing to the north-west of Lake Superior, separates the waters flowing direct to Hudson's Bay from those flowing into Lake Winnipeg, crossing the Nelson River or Lac des Forts, etc. Describing the country from Lake Superior westward the author goes on, at page 19, as follows:—

"At the mouth of Les Trois Rivières, or the Three Rivers, is a little French Fort called Camenistagouia; and twenty-five leagues to the west of the said Fort, the land begins to slope and the river to run towards the west.

"At ninety-five leagues from this greatest height lies the second establishment of the French that way, called Fort St. Pierre, in the Lake des Pluies. The third is Fort St. Charles, eighty leagues further, on the Lake des Bois. The fourth is Fort Maurepas, a hundred leagues distant from the last, near the head of the Lake of Quinipigon. Fort La Reine, which is the fifth, lies a hundred leagues further on the river of the Assiniboels. Another Fort had been built on the River Rouge, but was deserted on account of its vicinity to the two last. The sixth, Fort Dauphin, stands on the west side of Lac des Prairies, or of the Meadows; and the seventh, which is called Fort Bourbon, stands on the shore of the Great Lake Bourbon. The chain ends with Fort Poskoyac, at the bottom of a river of that name, which falls into Lake Bourbon. The River Poskoyac is made by De Lisle and Buache to rise within twenty-five leagues of their west sea, which they say communicates with the Pacific ocean. *All these Forts are under the Governor of Canada.*

The above, it will be observed, is the English account of what was still French Canada in 1760, just after the taking of Quebec and before the final conquest and cession of the country. The River Poskoyac is that which now bears the name of the Saskatchewan, upon which Sir Alexander McKenzie states that the French had another Fort higher up than Fort Poskoyac.\*

\* "It may be proper to observe, that the French had two settlements upon the Saskatchewan, long before, and at the conquest of Canada; the first at the Pasquia, near Carrot River, and the other at Nipawi, where they had agricultural instruments and wheel carriages, marks of both being found about those establishments, where the soil is excellent,"—Note to General History of the Fur Trade, p. lxxiii. See McKenzie's Voyages. London, 1801.



The same author, Jefferys, in his description of Louisiana, says : "It is bounded on the N. by Canada ; on the E. by the British Colonies of New York, Pennsylvania, Maryland, Virginia, &c., &c." The map accompanying this description claims the British Colonies, Virginia, &c., as coming up to the east bank of the Mississippi, and therefore it is Louisiana west of the Mississippi that he refers to as bounded by Canada on the north, that is to say, from the sources of the Mississippi westward.

The same year in which this work was published, all Canada was surrendered to the British, though not finally ceded till three years after.

In surrendering the country to the British, the Marquis de Vaudreuil submitted articles of capitulation which were marked "granted," or "refused," &c., according as they were finally agreed to by General Amherst. In guarding the interests of the Canadian colonists in every part of the country surrendered, the localities above described by English authority as being under the "Governor of Canada," are designated as "*the Countries above*," and the 46th article of the capitulation is as follows :

"The inhabitants and merchants shall enjoy all the privileges of trade under the same favours and conditions granted to the subjects of Her Britannic Majesty as well in the *Countries above* as in the interior of the Colony."—Granted.

By which these countries were manifestly surrendered along with the rest of Canada, and the future rights of the Canadians guaranteed thereto by the provision that no British subjects should ever enjoy any privileges of trade there in which they did not share ; not indeed that this guarantee, although it would decidedly have that effect, could have been foreseen as a safeguard against the Hudson's Bay Company who had never at that period penetrated into the country, it being simply intended to prevent any cause whatever from depriving the French colonists of the benefit of a trade which had always been one of the most important in the country.

In the negotiations for peace that followed in 1761, which were directed on the one part by Mr. Pitt, and by the Duke de Choiseul on the other, and which ended, for the time, in failure, France contended for the boundaries of Louisiana extending to Canada, which Great Britain opposed. Finally, the Treaty of 1763 allowed Louisiana to extend west of the Mississippi to its source, and made that river from its sources downwards the boundary between the British and French possessions,—the boundary from the sources of the Mississippi westward being left undetermined, a question which had ultimately to be settled with the United States instead of with France.

The system adopted and industriously followed by the two rival Companies after their union had indeed so disseminated an erroneous appellation, that the country north and northwest of the Mississippi had come to be commonly called the Hudson's Bay Company's Territories ; but when diplomatists and statesmen came to study the subject, tracing up from history and fact their respective claims, as bearing upon the Oregon question, they did not stultify themselves by the use of such an erroneous term ; accordingly we find Mr. Buchanan, now President elect of the United States, using the following language, in concluding a proposition made by him on 1st July, 1846 :

"The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of *ancient Louisiana and Canada* to the Pacific along the same parallel of latitude which divide them east of the Rocky Mountains."

The same line of argument sustains the British plenipotentiary when, in arguing the pretensions of his Government to Oregon, he traces the progress of the Canadians westward across the Rocky Mountains to the Pacific.

The next step in the natural progress of events is the description of Canada under British sway. The first step after the Treaty of Paris was to provide for the government of the settled part of the country, for which purpose the Government of Quebec was organised, comprising however a very limited portion of Canada, as per proclamation of 7th October, 1763, the rest of the country being thereby reserved from survey or settlement, for the moment, for the protection of the Indians. The description of Canada, however, of that period, took in the country to the westward of Pennsylvania, by the Ohio River, to the Mississippi. And the Imperial Statute of 1774, commonly called the "Quebec Act," describes the Province as extending "Northward to the Southern Boundary of the Territory granted to the

Merchants Adventurers of England trading to Hudson's Bay," *but does not specify what their boundaries are*, and it will be seen, by what follows, that the construction put upon this Act by the British Government, nine years later, was adverse to the present pretensions of the Company. The Treaty of Independence of the United States provided a new southerly boundary for Canada, a part of what had formerly gone under that name having been ceded to the United States; and by the commission issued to Lord Dorchester—the first after this Treaty—the same words are used in describing the boundaries of Canada, as in the Treaty, viz.:

"Through Lake Superior northwards of the Isles Royal and Philipeaux to the Long Lake; thence, through the middle of the said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence, through the said Lake to the most north-western point thereof, and from thence in a due west course to the River Mississippi, and northward to the southern boundary of the territories granted to the Merchants Adventurers of England trading to Hudson's Bay."

This description, it will be seen, leaves the boundaries beyond the sources of the Mississippi indeterminate. On the supposition that a line due west from the Lake of the Woods would intersect the Mississippi, the King was obliged to limit the extent of Canada on such line to the Mississippi proper, because by the Treaty of Paris, France retained the whole country to the west of the Mississippi from its source downwards. Had the King's Commission said from the intersection of the *due west* line with the Mississippi "*due north*," it might have been argued that it provided a westerly boundary, but it simply says "*northerly*," because although it was necessary to limit it to the Mississippi, where Louisiana commenced, there is no need for being specific beyond the sources of that river where the westerly boundary of Canada was yet unknown. Of the extent of Canada to the north by this description, it is enough to say that it was the same as by the Act of 1774, and required the boundaries of the territory granted to the Hudson's Bay Company to be defined *first*, and if that failed it had no other limit, short of its original extent under the French.

At the "definitive Treaty of Peace" with the United States, their territory did not extend at any point to the west of the Mississippi, until they acquired Louisiana in 1803. It will be remembered that Mr. Pitt objected to the northerly boundary of Louisiana coming so far north as the southerly boundary of Canada in 1761, that nevertheless it was so settled in 1763 that the Mississippi should be the boundary to its source. This result seems to have been a compromise by which Louisiana was confined almost entirely to the west of the Mississippi, Great Britain thus gaining her point on the east, which came more nearly in contact with her old possessions, and giving to France entire scope on the west to the very sources of the Mississippi, the boundary from thence westward being left undetermined. This point had accordingly to be afterwards settled with the United States, who had in the meantime acquired the rights of France. This settlement ultimately admitted the 49th parallel of latitude as the northerly boundary of Louisiana, and as such necessarily the southerly boundary of Canada from the Lake of the Woods due west to the Rocky Mountains, passing north of the source of the Mississippi proper, though intersecting some of its tributary streams, the only error in which was that the line should not have been north of the source of the Mississippi, an error resulting from a previous treaty with the United States, at a time when it was supposed that the parallel of latitude agreed upon east of the Mississippi would intersect that river.

Were the King's letters patent to Lord Dorchester indeed taken literally at the present day in regard to the southerly boundary of Canada, the due west line of the description, not intersecting the Mississippi, would go on as far as British territory, not otherwise organized, would carry it, which would be to the Pacific; or if limited at all it would be by the first waters of the Mississippi which it did intersect, which would be the White Earth River, and this would in fact correspond with the extent of Canada previously known to the French, taking in all the old forts already mentioned, and leaving out the "countries and nations hitherto undiscovered," that is at the time of the conquest, though at the period when that description was made the North-west Company were carrying on an active trade much farther to the west: nor is it clear that this would be adverse to the intention of the description, for some of the maps of that period represent the Mississippi as west of the Red River.

The southerly boundary of the British dominions west of Lake Superior being therefore demonstrated as identical with the southerly boundary of Canada to *some point due west*



of the Lake of the Woods, the only question is as to where that point is to be found; is it the White Earth River, the first waters of the Mississippi, with which the due west line intersects? or is it the summit of the Rocky Mountains, on the same principle that the *co-terminous* boundary of Louisiana was ultimately so construed?

The next point to be determined is the northerly extension of Canada from its southerly boundary. The official description, corresponding with the Act of 1774, carries it to the boundary of the Hudson's Bay Company's Territories, but the same official description ignores the boundaries they claim (*thus proving so far the construction then put upon the Act of 1774*), for it carries the southerly boundary of Canada down the watershed of Hudson's Bay from two to three hundred miles to the Lake of the Woods, and *thence due west*, thus making the starting point far within what the Hudson's Bay Company claim, and thus, *from a point within what they claim* as their territory, it is to extend northerly to their territories. If then the "rights" of the Hudson's Bay Company were even far less equivocal than they are, their southerly boundary, as pretended by themselves, is entirely demolished, and the question arises *where is the boundary of their territories so described as the northerly limit of Canada?* The question of territorial rights has already been so fully discussed that it is unnecessary to repeat the arguments. The only possible conclusion is, that Canada is either bounded in that direction by a few isolated posts on the shore of Hudson's Bay, or else that the Company's territory is—like the intersection of the due west line with the Mississippi—a myth, and consequently that Canada has no particular limit in that direction.

The accompanying map illustrates the northerly boundary of Canada, according to British authorities, as ceded by the French in 1763, there being no westerly boundary then known or since provided. This is perhaps all that could in the first instance be absolutely claimed as under the Government of Canada, were it not that, since the final determination of the southerly boundary, the Imperial Government merely described the authority of this Government as extending *over all the countries theretofore known as Canada*, which might fairly be taken to cover the territory acquired by the Treaty of Utrecht, as well as that acquired by the Treaty of Paris.

#### BOUNDARIES OF THE INDIAN TERRITORIES.

The boundaries of the Indian Territories need little consideration or explanation, as they simply include all that belongs to Great Britain in North America to the north and west of Canada, excepting the Territory (if any) which the Hudson's Bay Company may of right claim. It must not be lost sight of, however, that the great bulk of this territory has been acquired by the Crown of Great Britain through discoveries of its Canadian subjects, beyond whatever may be determined to be the westerly boundary of Canada, across the Rocky Mountains to the shores of the Pacific, and by the McKenzie River to the Frozen Ocean. The importance of these discoveries in the negotiations pending the Treaty of Oregon, cannot be forgotten, for it is in virtue of *Canadian Discovery* and *Canadian Settlement* that the British negotiator was enabled to maintain his position in the controversy, and secure a footing for his country on the Pacific. And when, it may be asked, did ever the Hudson's Bay Company afford such an important advantage to British interests?

Sir Alexander McKenzie's journey in 1793 across the Rocky Mountains (the first ever performed north of Mexico) is thus referred to by the Plenipotentiary, in negotiating the Treaty of Oregon:

"While Vancouver was prosecuting discovery and exploration by sea, Sir Alexander McKenzie, a partner in the *North-west Company*, crossed the Rocky Mountains, discovered the head waters of the river, since called Frazer's River, and following for some time the course of that river, effected a passage to the sea, being the first civilized man who traversed the continent of America from sea to sea in these latitudes. On the return of McKenzie to Canada the *North-west Company* established trading posts in the country to the westward of the Rocky Mountains."

This was the British title to that part of the country, and but for this journey and the establishing of these trading posts, by which were acquired what the same diplomatist says "may be called beneficial interests in those regions by commercial intercourse," the probability is that Great Britain would now hold no continuous possessions across this continent, if she even held any isolated localities on the Pacific, in virtue of her discoveries by sea.

Lewis and Clark, Americans, descended the southerly branch of the Columbia River, 1805, and in 1811, Mr. Thompson, of the North-west Company, came down the main branch from the north, whose discovery is thus referred to by the British Plenipotentiary :

"In the year 1811, Thompson, the Astronomer of the *North-west Company*, discovered the northern head waters of the Columbia, and following its course till joined by the rivers previously discovered by Lewis and Clark, he continued his journey to the Pacific."

And again :

"Thompson, of the *North-west Company*, was the first civilized person who navigated the northern, in reality the main branch of the Columbia, or traversed any part of the country drained by it."

This is the title by which Great Britain has been enabled to retain the main branch of the Columbia to its intersection with the 49th parallel of north latitude, and the free navigation for her subjects of the whole river from that point to its discharge in the Pacific Ocean, as secured by the Treaty of Oregon, 1846.

With respect to McKenzie's discoveries to the north, no diplomatic reference thereto can be quoted, inasmuch as there has been no disputed title on the part of any foreign Power to give rise to any controversy on the subject.

It may fairly be urged therefore, that these "Indian Territories," originally the fruits of Canadian enterprise, perseverance and industry, should no longer be shut out from the Canadian people, but should in fact be united to Canada as a part of the British Dominions, which Canadian subjects have had the merit of acquiring and retaining for the British Crown.

#### JURISDICTION.

The question of jurisdiction next comes under consideration, and in this, as regards the Hudson's Bay Company, it is apprehended that the actual exercise of it is widely different from what existing laws would sanction.

The mystery with which this Company have managed to shroud their operations in the interior renders it difficult to say what they do or what they do not do, but it is generally understood that they actually exercise unlimited jurisdiction in every respect, civil, criminal and governmental, and that not only in what has been considered their own territories, but also in the Indian Territories and those parts of Canada not immediately contiguous to settlement ; all of which existing law positively forbids them to do, it need not be said, in Canada, but either in their own territories or in the Indian Territories.

By the Imperial Statute 43 George 3, chapter 138, the jurisdiction over the Indian Territories and all "*parts of America not within the limits of the provinces of Lower or Upper Canada*, or either of them, or within any civil government of the United States of America," is vested in the said provinces. It is a curious circumstance that the very words of this Act, which seem to have been intended to deny all claim to any jurisdiction on the part of the Hudson's Bay Company, should have been taken hold of as the means of questioning its reference to them. The preamble of the Act, in giving the reason for the enactment, states that offences not committed within the limits of the Canadas or the United States, as above, "are therefore not cognisable by any jurisdiction whatever." This the Company argued could not mean their territories, *because* jurisdiction *did* exist there. The Act, they said, could not mean *all* British America not within the limits of the Canadas, for the assertion that no jurisdiction existed was not true of Nova Scotia or New Brunswick, and therefore might not be true of Hudson's Bay. Thus in fact, it appears that the framers of the Act having their minds directed to the north-west, where the offences referred to had occurred, forgot to exclude the provinces lying on the opposite side of Canada, on the Atlantic coast, from its operation ; and this omission, when the war was carried on between the two Companies in the interior, Lord Selkirk turned to account to throw doubt on the applicability of the Act to the Company's Territories. But the assumption that this Act does not affect their pretensions is doubly futile ; for, when more closely considered, it either brings their Territories within Canadian Jurisdiction or it ignores them altogether, and in either case it contracts the limits they claim. If they make good their assertion that it does not affect their territories, then it destroys their claim to have their limits extended to the boundaries of Canada. The territories referred to in the preamble of the Act are those not within the limits of *either*



Lower or Upper Canada, the two provinces being treated *distinctly* as regards the territories not within their limits. Now, taking Lower Canada in the first instance, it is bounded by the Ottawa, and a line due north from the head of Lake Temiscamingue; and the places outside its limits on which the Act would have effect, if not the Company's territories, must certainly be something between those limits and their territories. But the question is more important as regards the places outside of Upper Canada. If the maps accompanying the "Statements of Rights" submitted by Sir J. H. Pelly be correct, then the territory affected by the Act is about 1500 miles distant in its nearest part from the most remote point in Canada. In other words, Canada ends at the source of Pigeon River, and the Indian Territories begin at the top of the Rocky Mountains, and we are required therefore to assume that the Imperial Legislature meant to commit the absurdity of giving jurisdiction to the courts of Canada over a territory beginning at a distance of some fifteen hundred miles from her frontier, while a different British jurisdiction (that of the Company) prevailed in the intervening space. But assuming for fact the Company's view of the case, that it did not affect their territories, we find the very purpose for which the Act was passed as expressed in the title to be, to provide a jurisdiction for certain parts of North America *adjoining* to the said provinces of Lower and Upper Canada. Consequently, if the territory affected by the Act only commences at the summit of the Rocky Mountains, as represented by the map submitted by Sir J. H. Pelly, then as it *adjoins* this province, Canada must extend to the summit of the Rocky Mountains, so that on their own showing the jurisdiction they exercise in the intervening space, at Red River for instance, is out of their own territories, and therefore not only without the sanction of law but in violation of a positive enactment. They must thus either ignore their own pretensions to the territory between what they call the westerly boundary of Canada, and easterly boundary of the "Indian Territories," or they must admit that the Act under consideration (which is still unrepealed) applies to their territories, in which case their jurisdiction in every part would be in violation of the statute.

But if there was any doubt on the subject before, it was fully removed by the Act 1 and 2 Geo. 4, Cap. 66, which was passed after all the strife and bloodshed in the north-west, and which, after reciting the doubt raised respecting the former Act being applicable to the Hudson's Bay Company's territories, declares at section 5 in the strongest and most comprehensive manner, that the said Act and all its clauses shall be construed to apply to their territories, any thing in "*any grant or Charter to the Company to the contrary notwithstanding.*"

This Act, 1 and 2 Geo. 4, cap. 66, gives jurisdiction as full and complete as language can make it over all the Indian and Hudson's Bay Company's Territories to the Courts of Canada, and it provides for the appointment of Justices of the Peace by the Crown (both for the Indian Territories and Hudson's Bay Company's Territories), to whom the *Canadian Courts are empowered* to issue commissions "to take evidence in any Cause or Suit and return the same, or try such issue, and for that purpose to hold courts, &c." These courts are most distinctly made subordinate to the Courts of Canada, &c., and can, in fact, be created by and exist through them only.

By the 11th and 12th clauses, however, the Crown is empowered to create Courts of Record, without the intervention of the Canadian Courts (but without limiting the power to be exercised through them), for the trial of small causes and petty offences, the former being limited to civil cases not affecting a larger amount than £200, and the latter to cases in which the offence does not subject the person committing the same to capital punishment or transportation.

By this Act it is repeatedly declared and enacted in the most emphatic manner, that its enactments shall have effect "*notwithstanding anything contained in any Charter granted to the Governor and Company of Adventurers of England trading to Hudson's Bay.*"

It is true the last clause of the Act reserves to the Company in the most ample manner all rights and privileges they "*are by law entitled to claim and exercise under their Charter.*" This it will be observed is what the "Statement of Rights" refers to when claiming a "*concurrent jurisdiction*" with the Canadian Courts. Now, when it is observed that the Legislature has refrained from expressing any opinion as to what the rights or privileges of the Company really are, and cautiously abstained from recognising any but what they already had "*by law,*" it is difficult to suppose that it was the intention of the Act to recognise in them those very powers which it was making the most ample provision for the exercise of by a totally different authority in strong and repeatedly expressed abnegation of their pretensions.

It is also to be observed that the previous Act, 43 Geo. 3, which denies their jurisdiction, is still in force, unrestricted in every particular, and not deriving its force from the subsequent statute, which is merely *declaratory* in that particular of its proper construction.

The question of whether the Company can exercise any legal jurisdiction within their own territories—limited to their just extent—loses its importance, however, in face of the more serious question of its actual exercise both in Canada and the Indian Territories, and that even to the extent of life and death, while the intention of the Imperial Legislature in creating a jurisdiction for these territories, reserved all important cases, either civil or criminal, for trial by the regularly constituted legal tribunals of an organised community, where the *Charter* of British rights would be held as sacred as the interests of a commercial company who assume to be themselves the Judges where (without any reflection upon them collectively or individually) cases must, in the very nature of things, arise in which they ought to be judged.

It therefore becomes of very great moment to ascertain the truth of certain statements that have been made to the effect that their principal officers at the Red River hold their commissions from the Crown, and if so, under what form, for what extent of territory, and how described. Such commissions might, no doubt, have been issued under the statute 1 and 2 Geo. 4, for the Hudson's Bay Company's Territories and for the Indian Territories, for the trial of small causes and offences of a minor nature as already described, without in the least infringing upon or limiting the right of Canada to intervene; but if the British Government has expressly included the Red River country in any such commissions, it can only have been through a misapprehension of boundaries, which is not to be wondered at from the policy pursued since the union of the Companies, and the erroneous view of the case they have so constantly disseminated; and no doubt any such powers, if they had been granted, would be withdrawn as soon as the case has been brought fully under the consideration of the Imperial authorities.

In concluding the question of Jurisdiction, it is necessary to observe that the Imperial statutes herein quoted, which vest the jurisdiction in Canada to the shores of the Pacific, have been repealed in so far as they relate to Vancouver's Island by the Act 12-13 Vic., Cap. 48, which re-invests the jurisdiction of Vancouver's Island in the Imperial Government until the establishment of a local Legislature, which the Act contemplates.

At the same time, a charter was granted to the Hudson's Bay Company for the colonization of the Island, conveying a grant of the soil.

Neither the Act nor the Charter, however, confers any jurisdiction upon the Company.

The Company were required by the terms of the grant to colonize the Island within five years, failing which the grant was to become void. It was also stipulated that the grant might be recalled at the time of the expiration of their lease for the Indian Territories upon payment to the Company of the expenses they might have incurred, the value of their establishments, &c.

#### GENERAL REMARKS.

Before concluding this Report it is desirable to offer a few general remarks upon the subject, which the policy of the Company has kept out of view, and which consequently is not generally well understood.

The Hudson's Bay Company claim under three separate titles, the first of which is the Charter of Charles II., granted in 1670, *for ever*. The second is the lease originally granted in 1821 to them in conjunction with the North-west Company of Canada for the Indian Territories. The third is their title to Vancouver's Island, as explained. Under the first they base their claim to government, jurisdiction, and right of soil over the whole country watered by rivers falling into Hudson's Bay; at least, such is the theory, although they have abandoned it south of the present southerly boundary of Canada at Rainy Lake, the Lake of the Woods, and along the 49th parallel, to the south of which those rivers take their rise. Under the second, they claim exclusive trade from the Rocky Mountains west to the Pacific, and from the sources of the McKenzie River to the Frozen Ocean. There is no dispute about their title on this head, but their lease expires in two years, and it is a renewal of this lease for a further period of 21 years which they now seek to obtain.

It will be seen by the question of boundary already treated, that the country about Red River and Lake Winnipeg, etc., which they claim under their Charter, absolutely be-



longs to Canada; and it will be observed that the abstract right, not the value of the territory, has been dwelt upon, but unfortunately the latter has been as little generally understood as the former, the result of the means the Company have taken to conceal it, for seldom if ever has the wisdom and foresight of man devised a policy better calculated to the end for which it was intended than that adopted since the union of the Companies in 1821.

Before that union the Canadian Fur Trade gave employment to some thousands of men as mere carriers, or "*Voyageurs*" as they were termed.

In endeavouring to depreciate the national services rendered by the North-west Company during the war of 1812, at the capture of Michilimacinae, &c., Lord Selkirk alludes to this body of men as forming the "*Voyageurs Corps*," but denies credit to the Company for their important services, which he admits "in a great measure secured Canada," because they were not constantly employed by the Company, and effected this service at a season of the year when the Company did not require them. Assuming this to be the fact, however, had there been then, as now, no such Company and no such trade, there would have been no such body of men ready for action in the hour of danger.

Had the circumstances of the trade continued the same to the present day, settlement must have followed the route of such a line of traffic, and the continual intercourse between this country and the fertile plains of the "far West" would have placed us as far in advance of our American neighbours in the colonization of those countries, as we are now behind them.

But the policy of the united Companies has been so admirably carried out in all its details, that an erroneous impression respecting the country and everything connected with it had gradually got possession of the public mind, and it is wonderful with what tact such impressions may sometimes be conveyed without any statement being made contrary to truth. The very appellation of "*Hudson's Bay Territory*," as applied for instance to the Red River country, carries a false impression with it, for the waters of the Mississippi and the Red River, the Assiniboine and the Missouri, interlace with each other there, and therefore the designation of "*Gulf of Mexico Territory*" would just be as correct. But what a different impression it would convey as regards climate. Again, almost every mention of the available parts of the Western Territories, which are well known to possess a soil and climate adapted in the highest degree for successful settlement, is interwoven with some reference to *ice* in some shape or other, which no doubt the Company truly encounter in carrying the trade some eight hundred miles due north through Hudson's Bay.

An admirable specimen of this kind of policy, by which erroneous impressions may be conveyed, is to be found in Sir J. H. Pelly's letter to Lord Glenelg, of 10th February, 1837:

"For many years prior to the conquest of Canada, French subjects had penetrated by the St. Lawrence to the frontiers of Rupert's Land; but no competition had occurred between the traders of the two countries within the territories of the Hudson's Bay Company previous to the cession of Canada to Great Britain.

"Subsequent to that period, the greater capital and activity of British subjects led to a competition, first on the frontier parts, then in the interior, and at last to the formation of a Company, combining all the individuals at that time engaged in the trade to countries bordering on and west of Lake Superior, under the firm of the North-west Company of Montreal."

This when dissected is a significant paragraph. Where are "*the frontiers of Rupert's Land*," if the French, whose Forts were all around Lake Winnipeg, had not reached them before the cession of Canada to Great Britain? This is an important corroboration of the views of the boundary question explained in the present report.

That "no competition had occurred within the Territories of the Hudson's Bay Company" up to that time may be very true, because the Company had never come up from the shores of the Bay, and the French had not gone down—from their places on Lake Winnipeg—to the Bay. The second paragraph above quoted may also be substantially true, but yet it is so framed as to convey to the general reader that the competition arose from the inhabitants of Canada advancing beyond where they had been before; whereas it was the Hudson's Bay Company who then came up, for the first time, from the shores of the Bay, which led to the competition "first on the frontier parts" of Rupert's land, "then in the interior," on Lake Winnipeg, the Saskatchewan, &c., where the Canadians had long enjoyed the trade without competition.

Such is the system and policy pursued by the Company to exclude from view and create

erroneous impressions respecting the Western portion of this Province, than which there is perhaps no finer country in North America. The same course marks their proceedings at the present moment, for no intimation has been given to this country of their intention to apply for a renewal of the lease of the Indian Territories, though exercising the privileges they do in countries subject to the Canadian Government, it would not have been unreasonable to expect a different course. Neither does it appear that they have taken any means to inform the inhabitants of those countries whose rights and interests are most deeply affected by the action to be taken, that they were to make this early application for renewal of their lease. Had it been effected in the quiet manner they seem to have desired—a consummation which the thanks of the country are due to the Imperial Government for having refused to sanction—they *only* would have been heard in their own case, and the result would have been, alike to the people here and in the more remote territories, a surprise.

Canada has no quarrel with the Hudson's Bay Company, and desires no harsh measures towards them. It would be alike ruinous to them and injurious to the countries over which they hold either legal or illegal sway, to put a sudden stop to their operations; but it is an error to suppose that the governing of those countries is a task of uncommon difficulty. The state of anarchy which prevailed in those countries during the warfare of the Companies was the result of the strife between them, where there was no sort of authority, except what they seemed equally to wield, and not arising from any turbulent or ungovernable spirit on the part of the native population. On the contrary, the moment a recognised authority stepped in to control both Companies, implicit obedience was at once yielded to it throughout those vast territories, and either party would have found itself powerless to command followers for any purpose of further aggression. This was upon the occasion of the withdrawal of all commissions of the peace, previously granted to the leading people of the two Companies, the appointment of two special Commissioners (one of them a member of the Executive Council of Lower Canada), and the issuing of a proclamation in the name of the Prince Regent, by authority of a despatch from Earl Bathurst of 6th February, 1817, requiring the mutual restitution of all the places and property captured during the strife, to the party who had originally possessed the same, and the entire freedom of the trade to each party, until further adjudicated upon. Galling as this restitution must have been in numerous instances, where party feeling embittered by the loss of many lives, had reached the highest pitch of excitement, it was immediately complied with.

The proper course to pursue, therefore, would be to lay before the Imperial Government the expediency of annexing the Indian Territories to Canada, shewing that by this means only can those countries be retained long in the possession of Great Britain. For colonized they *must and will be*; it is only a question of who shall do it. If we do not, the Americans will, and that in spite of anything the Company can do to prevent it. That these Territories are fit fields for settlement it is useless to dispute, for one physical fact upsets all theories to the contrary. Where a country is found to sustain *animal life* to such an extent that hundreds of thousands of wild cattle find subsistence there both in summer and winter, there man also can find a home and plenty. Nor is the country possessing this characteristic confined to a narrow strip along the frontier, but continuing to widen to the westward it is found that the climate, even on the east side of the Rocky Mountains and at a depth of seven degrees North of the American Boundary, is milder than the average of the settled parts of Upper Canada.

On the west side of the Rocky Mountains the climate is mild to a still higher latitude, but Vancouver's Island together with the contiguous main land is perhaps one of the finest countries in the world for colonization. The only drawback is the difficulty of access,—a difficulty which the present system will never remove, for it looms larger now than it did forty or fifty years ago, when the North-west Company of Canada poured a continuous stream of traffic across the continent. This Island cannot now of course be annexed to Canada on the same terms as the other Indian Territories, as the existing Charter under which the Island is held (a different and distinct thing, be it remembered, from either the old Charter or the expiring Lease) entitles the Hudson's Bay Company to payment of the value of their establishments if the grant be rescinded, which Canada would naturally be expected to pay if the Island were conceded to her, and it might be well to see now upon what terms this could be done, because it seems that if it be not done at the expiration of the Lease of the "Indian



Territories," it could not be done afterwards, unless indeed the Company have failed to fulfil the conditions required within the first five years.

Twelve years ago the United States had no communication with their territories on the Pacific except by sea, and during the Oregon negotiations, when proposing strenuous measures upon the subject, the President in his message to Congress, 2nd December, 1845, says :—

"An overland mail is believed to be entirely practicable ; and the importance of establishing such a mail at least once a month is submitted to the favourable consideration of Congress."

How different the circumstances now, and how "entirely practicable" it has proved, need not be dwelt upon, but it must be remarked that at no other point, north of the Gulf of Mexico, are the facilities for communication across the continent anything like equal to what they are through Canada, there being good navigation three-fourths, if not more, of the whole distance ; first to the head of Lake Superior, from whence the navigation is broken to Lake Winnipeg (though about 150 miles of this distance is navigable), then through that Lake to the Saskatchewan, on which there are obstructions, in the lower part near the Lake, from whence the navigation is unimpeded to the very base of the Rocky Mountains.

It would be very desirable, therefore, and quite practicable, if the British Government will consent, to annex the Indian Territories, extending to the Pacific and Vancouver's Island, to Canada, to establish during summer a monthly communication across the continent. It is of incalculable importance that these measures should be most forcibly pressed upon the Imperial Government at the present juncture, for on their solution depends the question of whether this country shall ultimately become a Petty State, or one of the Great Powers of the earth ; and not only that, but whether or not there shall be a counterpoise favourable to British interests and modelled upon British institutions to counteract the preponderating influence—if not the absolute dominion—to which our great neighbour, the United States, must otherwise attain upon this continent.

No reference has been here made to the controversy between the Company and those who accuse them of exercising a pernicious influence over the Indian population, nor is it necessary to enter into the subject further than to point out the erroneous impression the Company strive to inculcate, to the effect that they are necessary to the Indians. It may well be that the state of things is better under them than it was when the two powerful Companies were in hostile array against each other ; and it may be that their affairs are as well conducted, with reference to their effect upon the native population, as could well be expected of a Commercial Company, having the primary question of profit and loss as the object of their association. But the question really comes to be, whether those countries shall be kept in *statu quo* till the tide of population bursts in upon them, over an imaginary line, from a country where it has been the rule that the Indian must be driven from the lands the white man covets ; or be opened up under the influence of the Canadian Government, which has always evinced the greatest sympathy towards the Indian race, and has protected them in the enjoyment of their rights and properties, not only in their remote hunting grounds, but in the midst of thickly-peopled districts of the country.

JOSEPH CAUCHON,  
*Commissioner of Crown Lands.*

CROWN LANDS DEPARTMENT,  
Toronto, 1857.

AN ACT FOR REGULATING THE FUR TRADE, AND ESTABLISHING A CRIMINAL AND CIVIL JURISDICTION WITHIN CERTAIN PARTS OF NORTH AMERICA.

2nd July, 1821.

Whereas the competition in the Fur Trade between the Governor and Company of Adventurers of England trading into Hudson's Bay, and certain Associations of Persons trading under the name of "The North-West Company of Montreal," has been found for some years past to be productive of great inconvenience and loss, not only to the said

Company and Associations but to the said trade in general, and also of great injury to the native Indians, and of other persons subjects of His Majesty : And whereas the animosities and feuds, arising from such competition, have also for some years past kept the interior of America, to the Northward and Westward of the Provinces of Upper and Lower Canada, and of the territories of the United States of America, in a state of continued disturbance : And whereas many breaches of the Peace, and violence extending to the loss of lives, and considerable destruction of property, have continually occurred therein : And whereas for remedy of such evils, it is expedient and necessary that some more effectual regulations should be established for the apprehending, securing, and bringing to justice all persons committing such offences, and that His Majesty should be empowered to regulate the said trade : And whereas doubts have been entertained, whether the provisions of an Act passed in the forty-third year of the Reign of His late Majesty King George the Third, intituled 'An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces, extended to the territories granted by Charter to the said Governor and Company ; and it is expedient that such doubts should be removed, and that the said Act should be further extended : ' Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, it shall be lawful for His Majesty, his heirs or successors, to make Grants or give His Royal License, under the hand and seal of one of His Majesty's Principal Secretaries of State, to any Body Corporate, or Company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as shall be specified in any such Grants or Licenses respectively, not being part of the lands or territories heretofore granted to the said Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of His Majesty's Provinces in North America, or of any lands or territories belonging to the United States of America ; and all such Grants and Licenses shall be good, valid and effectual for the purpose of securing to all such Bodies Corporate or Companies, or persons, the sole and exclusive privilege of trading with the Indians in all such parts of North America (except as hereinafter excepted) as shall be specified in such Grants or Licenses ; anything contained in any Act or Acts of Parliament, or any law to the contrary notwithstanding.

II. Provided always, and be it further enacted, that no such Grant or License, made or given by His Majesty, his heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid, shall be made or given for any longer period than twenty-one years ; and no rent shall be required or demanded for or in respect of any such Grant or License, or any privileges given thereby under the provisions of this Act, for the first period of twenty-one years ; and from and after the expiration of such first period of twenty-one years, it shall be lawful for His Majesty, his heirs or successors, to reserve such rents in any future Grants or Licenses to be made to the same or any other parties, as shall be deemed just and reasonable, with security for the payment thereof ; and such rents shall be deemed part of the land revenues of His Majesty, his heirs and successors, and be applied and accounted for as the other land revenues of His Majesty, his heirs or successors, shall, at the time of payment of any such rent being made, be applied and accounted for.

III. And be it further enacted, that from and after the passing of this Act, the Governor and Company of Adventurers trading to Hudson's Bay, and every Body Corporate and Company and person to whom every such Grant or License shall be made or given as aforesaid, shall respectively keep accurate registers of all persons in their employ in any parts of North America, and shall, once in each year, return to His Majesty's Secretaries of State, accurate duplicates of such registers, and shall also enter into such security as shall be required by His Majesty for the due execution of all processes criminal and civil, as well within the territories included in any such grant as within those granted by Charter to the Governor and Company of Adventurers trading to Hudson's Bay, and for the producing or delivering into safe custody, for purpose of trial, of all persons



in their employ or acting under their authority, who shall be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations, and stipulations as shall be contained in any such grant or license, either for diminishing or preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement, or for any other object which His Majesty may deem necessary for the remedy or prevention of the other evils which have hitherto been found to exist.

IV. And whereas by a convention entered into between His Majesty and the United States of America, it was stipulated and agreed, that any country on the north-west coast of America, to the westward of the Stony Mountains, should be free and open to the citizens and subjects of the two Powers, for the term of ten years from the date of the signature of that Convention; be it therefore enacted, that nothing in this Act contained shall be deemed or construed to authorize any Body Corporate, Company, or person, to whom His Majesty may have, under the provisions of this Act, made a grant or given a License of exclusive trade with the Indians in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said Article, to the prejudice or exclusion of any citizens of the said United States of America, who may be engaged in the said trade: Provided always, that no British subject shall trade with the Indians within such limits, without such Grant or License as is by this Act required.

V. And be it declared and enacted, That the said Act passed in the forty-third year of the reign of His late Majesty, intituled "An Act for extending the Jurisdiction of the Courts of Justices in the Provinces of Lower and Upper Canada, to the Trial and Punishment of persons guilty of crimes and offences within certain parts of North America adjoining to the said Provinces," and all the clauses and provisos therein contained, shall be deemed and construed, and it is and are hereby respectively declared, to extend to and over and to be in full force in and through all the territories heretofore granted to the Company of Adventurers of England trading to Hudson's Bay; anything in any Act or Acts of Parliament, or this Act or in any grant or Charter to the Company, to the contrary notwithstanding.

VI. And be it further enacted, that from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of Upper Canada, shall have the same civil jurisdiction, power and authority, as well in the cognizance of suits as in the issuing process, mesne, and final, and in all other respects whatsoever, within the said Indian Territories and other parts of America not within the limits of either of the Provinces of Lower or Upper Canada, or of any civil government of the United States, as the said Courts have or are invested with within the limits of the said Provinces of Lower or Upper Canada respectively; and that all and every contract, agreement, debt, liability, and demand whatsoever, made, entered into, incurred, or arising within the said Indian Territories and other parts of America, and all and every wrong and injury to the person or to the property, real or personal, committed or done within the same, shall be and be deemed to be of the same nature, and be cognizable by the same Courts, Magistrates, or Justices of the Peace, and be tried in the same manner and subject to the same consequences in all respects as if the same had been made, entered into, incurred, arisen, committed or done within the said Province of Upper Canada, anything in any Act or Acts of Parliament, or Grant, or Charter, to the contrary notwithstanding: Provided always, that all such suits and actions relating to lands or to any claims in respect of lands not being within the Province of Upper Canada, shall be decided according to the laws of that part of the United Kingdom called England, and shall not be subject to or affected by any local Acts, Statutes, or laws of the Legislature of Upper Canada.

VII. And be it further enacted, that all process, writs, orders, judgments, decrees and acts whatsoever, to be issued, made, delivered, given and done by or under the authority of the said Courts, or either of them, shall have the same force, authority, and effect within the said Indian Territory and other parts of America as aforesaid, as the same now have within the said Province of Upper Canada.

VIII. And be it further enacted, that it shall be lawful for the Governor or Lieu-

tenant-Governor or person administering the Government for the time being of Lower Canada, by commission under his hand and seal, to authorise all persons who shall be appointed Justices of the Peace under the provisions of this Act within the said Indian Territories, or other parts of America as aforesaid, or any other person who shall be specially named in any such commission, to act as a Commissioner within the same, for the purpose of executing, enforcing and carrying into effect all such process, writs, orders, judgments, decrees and acts which shall be issued, made, delivered, given or done by the said Courts of Judicature, and which may require to be enforced and executed within the said Indian Territories or such other parts of North America as aforesaid; and in case any person or persons whatsoever, residing or being within the said Indian Territories, or such other parts of America as aforesaid, shall refuse to obey or perform any such process, writ, order, judgment, decree, or act of the said Courts, or shall resist or oppose the execution thereof, it shall and may be lawful for the said Justices of the Peace, or Commissioners, and they or any of them are, and is hereby required, on the same being proved before him, by the oath or affidavit of one credible witness, to commit the said person or persons so offending as aforesaid, to custody, in order to his or their being conveyed to Upper Canada; and that it shall be lawful for any such Justice of the Peace or Commissioner, or any person or persons acting under his authority, to convey or cause to be conveyed such person or persons so offending as aforesaid, to Upper Canada, in pursuance of such process, writ, order, decree, judgment or act, and such person and persons shall be committed to gaol by the said Court, on his, her, or their being so brought into the said Province of Upper Canada, by which such process, writ, order, decree, judgment or act was issued, made, delivered, given or done, until a final judgment or decree shall have been pronounced in such suit, and shall have been duly performed, and all costs paid in case such person or persons shall be a party or parties in such suit; or until the trial of such suit shall have been concluded, in case such person or persons shall be a witness or witnesses therein: Provided always, that if any person or persons so apprehended as aforesaid, shall enter into a bond recognizance to any such Justice of the Peace or Commissioner, with two sufficient sureties, to the satisfaction of such Justice of the Peace or Commissioner, or the said Courts, conditioned to obey and perform such process, writ, order, judgment, decree, or act as aforesaid, then, and in such case, it shall and may be lawful for the said Justice of the Peace or Commissioner, or the said Courts, to discharge such person or persons out of custody.

IX. And be it further enacted, that in case such person or persons shall not perform and fulfil the condition or conditions of such recognizance, then and in such case it shall and may be lawful for any such Justice or Commissioner, and he is hereby required to assign such recognizance to the plaintiff or plaintiffs, in any suit in which such process writ, order, decree, judgment, or act shall have been issued, made, delivered, given, or done, who may maintain an action in the said Courts, in his own name, against the said sureties, and recover against such sureties the full amount of such loss or damage as such plaintiff shall prove to have been sustained by him, by reason of the original cause of action in respect of which such process, writ, order, decree, judgment, or act of the said Courts were issued, made, delivered, given, or done as aforesaid, notwithstanding anything contained in any Charter granted to the said Governor and Company of Adventurers of England, trading to Hudson's Bay.

X. And be it further enacted, that it shall be lawful for His Majesty, if he shall deem it convenient so to do, to issue a commission or commissions to any person or persons to be and act as Justices of the Peace, within such parts of America as aforesaid, as well within any territories heretofore granted to the Company of Adventurers of England trading to Hudson's Bay, as within the Indian Territories of such other parts of America as aforesaid, and it shall be lawful for the Court in the Province of Upper Canada, in any case in which it shall appear expedient, to have any evidence taken by Commission, or any facts or issue, or any cause or suit ascertained, to issue a Commission to any three or more of such Justices to take such evidence, and return the same, or try such issue, and for that purpose to hold Courts, and to issue subpoenas or other processes to compel attendance of plaintiffs, defendants, jurors, witnesses, and all other persons requisite and essential to the execution of the several purposes for which such Commission or Commissions had issued, and with the like power and authority as are vested in the Courts



of the said Province of Upper Canada ; and any order, verdict, judgment, or decree, that shall be made, found, declared, or published by or before any Court or Courts held under and by virtue of such Commission or Commissions, shall be considered to be of as full effect, and enforced in like manner, as if the same had been made, found, declared, or published within the jurisdiction of the Court of the said Province, and at the time of issuing such Commission or Commissions shall be declared the place or places where such Commission is to opened, and the Courts and proceedings thereunder held ; and it shall be at the same time provided how and by what means the expenses of such Commission, and the execution thereof, shall be raised and provided for.

XI. And be it further enacted that it shall be lawful for His Majesty, notwithstanding anything contained in this Act, or in any Charter granted to the said Governor and Company of Adventurers of England trading to Hudson's Bay, from time to time, by any Commission under the Great Seal, to authorise and empower any such person so appointed Justices of the Peace as aforesaid, to sit and hold Courts of Record for the trial of criminal offences and misdemeanors, and also for civil causes ; and it shall be lawful for His Majesty to order, direct and authorise the appointment of proper officers to act in aid of such Courts and Justices within the jurisdiction assigned to such Courts and Justices in any such Commission ; anything in this Act or in any Charter of the Governor and Company of Merchant Adventurers of England trading to Hudson's Bay, to the contrary notwithstanding.

XII. Provided always, and be it further enacted, that such Courts shall be constituted, as to the number of Justices to preside therein, and as to such places within the said territories of the said Company, or any Indian territories or other parts of North America as aforesaid, and the times and manner of holding the same, as His Majesty shall from time to time order and direct ; but shall not try any offender upon any charge or indictment for any felony made the subject of capital punishment, or for any offence or passing sentence affecting the life of any offender or adjudge or cause any offender to suffer capital punishment or transportation, or take cognizance or try any civil action or suit, in which the cause of such suit or action shall exceed in value the amount or sum of two hundred pounds ; and in every case of any offence subjecting the person committing the same to capital punishment or transportation, the Court or any Judge of any such Court, or any Justice or Justices of the Peace, before whom any such offender shall be brought, shall commit such offender to safe custody, and cause such offender to be sent in such custody for trial in the Court of the Province of Upper Canada.

XIII. And be it further enacted, that all judgments given in any civil suit shall be subject to appeal to His Majesty in Council, in like manner as in other cases in His Majesty's Province of Upper Canada, and also in any case in which the right or title to any land shall be in question.

XIV. And be it further enacted, that nothing in this Act contained shall be taken or construed to affect any right, privilege, authority or jurisdiction, which the Governor and Company of Adventurers trading to Hudson's Bay are by law entitled to claim and exercise under their Charter, but that all such rights, privileges, authorities and jurisdictions shall remain in as full force, virtue and effect, as if this Act had never been made ; anything in this Act to the contrary notwithstanding.

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#### LICENSE OF EXCLUSIVE TRADE TO THE HUDSON'S BAY COMPANY, 1821.

GEORGE R.

(L. S.)

GEORGE the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To all to whom these presents shall come, greeting :

WHEREAS an Act passed in the second year of our reign, intituled, " An Act for regulating the Fur Trade, and for establishing a Criminal and Civil Jurisdiction within certain parts of North America ;" wherein it is amongst other things enacted, that from and after

the passing of the said Act, it should be lawful for us, our heirs or successors, to make Grants or give our Royal License, under the hand and seal of one of our Principal Secretaries of State, to any body corporate or company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any such Grants or Licenses respectively, not being part of the lands or territories heretofore granted to the Governor and Company of Adventurers of England trading to Hudson's Bay, and not being part of any of our provinces in North America, or of any lands or territories belonging to the United States of America, and that all such Grants and Licenses should be good, valid, and effectual, for the purpose of securing to all such bodies corporate, or companies, or persons, the sole and exclusive privilege of trading with the Indians, in all such parts of North America (except as hereinafter excepted) as should be specified in such Grants or Licenses, any thing contained in any Act or Acts of Parliament, or any law to the contrary notwithstanding; and it was in the said Act further enacted, that no such Grant or License made or given by us, our heirs or successors, of any such exclusive privileges of trading with the Indians in such parts of North America as aforesaid should be made or given for any longer period than 21 years, and that no rent should be required or demanded for or in respect of any such Grant or License, or any privileges given thereby, under the provisions of the said Act, for the first period of 21 years; and it was further enacted, that from and after the passing of the said Act, the Governor and Company of Adventurers of England trading to Hudson's Bay, and every body corporate and company and person, to whom every such Grant or License should be made or given as aforesaid, should respectively keep accurate registers of all persons in their employ, in any parts of North America, and should once in each year return to our Principal Secretaries of State accurate duplicates of such registers, and should also enter into such security as should be required by us for the due execution of all criminal processes, and of any civil process in any suit where the matter in dispute shall exceed £200, and as well within the territories included in any such Grant as within those granted by Charter to the Governor and Company of Adventurers of England trading to Hudson's Bay, and for the producing and delivering into safe custody for the purpose of trial, all persons in their employ, or acting under their authority, who should be charged with any criminal offence, and also for the due and faithful observance of all such rules, regulations and stipulations as should be contained in any such Grant or License, either for gradually diminishing and ultimately preventing the sale or distribution of spirituous liquors to the Indians, or for promoting their moral and religious improvement; or for any other object which we might deem necessary for the remedy or prevention of any other evils which have been hitherto found to exist: And whereas it was also in the said Act recited, that by a Convention entered into between his late Majesty and the United States of America, it was stipulated and agreed, that every country on the north-west coast of America to the westward of the Stony Mountains should be free and open to the citizens and subjects of the two powers for the term of ten years from the date of the signature of that Convention; and it was therefore enacted, that nothing in the said Act contained should be deemed or construed to authorise any body corporate, company or person to whom His Majesty might, under the provisions of the said Act, make or grant or give a license of exclusive trade with the Indians in such parts of North America as aforesaid, to claim or exercise any such exclusive trade within the limits specified in the said article, to the prejudice or exclusion of any citizens of the said United States of America who might be engaged in the said trade: Provided always that no British subject should trade with the Indians within such limits without such Grant or License as was by the said Act required.

And whereas the said Governor and Company of Adventurers of England trading into Hudson's Bay, and certain Associations of persons trading under the name of the "North-west Company, of Montreal," have respectively extended the fur trade over many parts of North America which had not been before explored: And whereas the competition in the said trade has been found for some years past to be productive of great inconvenience and loss, not only to the said Company and Associations, but to the said trade in general, and also of great injury to the native Indians, and of other persons our subjects: And whereas the said Governor and Company of Adventurers of England trading into Hudson's Bay, and William M'Gillivray, of Montreal, in the Province of Lower Canada, esquire, Simon M'Gillivray, of Suffolk Lane in the City of London, merchant, and Edward Ellice, of



Spring Gardens, in the County of Middlesex, esquire, have represented to us, that they have entered into an agreement, on the 26th day of March last, for putting an end to the said competition, and carrying on the said trade for 21 years, commencing with the outfit of 1821, and ending with the returns of 1841, to be carried on in the name of the said Governor and Company exclusively;

And whereas the said Governor and Company, and William M'Gillivray, Simon M'Gillivray, and Edward Ellice, have humbly besought us to make a Grant, and give our Royal License to them jointly, of and for the exclusive privilege of trading with the Indians in North America, under the restrictions and upon the terms and conditions specified in the said recited Act: NOW KNOW YE, That we, being desirous of encouraging the said trade and remedying the evils which have arisen from the competition which has heretofore existed therein, do grant and give our Royal License under the hand and seal of one of our Principal Secretaries of State, to the said Governor and Company, and William M'Gillivray, Simon M'Gillivray and Edward Ellice, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and westward of the lands and territories belonging to the United States of America as shall not form part of any of our provinces in North America, or of any lands or territories belonging to the said United States of America, or to any European government, state or power; and we do by these presents give, grant and secure to the said Governor and Company, William M'Gillivray, Simon M'Gillivray, and Edward Ellice jointly, the sole and exclusive privilege, for the full period of 21 years from the date of this our Grant, of trading with the Indians in all such parts of North America as aforesaid (except as thereafter excepted); and we do hereby declare that no rent shall be required or demanded for or in respect of this our Grant and License, or any privileges given thereby, for the said period of 21 years, but that the said Governor and Company, and the said William M'Gillivray, Simon M'Gillivray, and Edward Ellice shall, during the period of this our Grant and License, keep accurate registers of all persons in their employ in any parts of North America, and shall once in each year return to our Secretary of State accurate duplicates of such registers, and shall also enter into and give security to us, our heirs and successors, in the penal sum of £5,000, for ensuring, as far as in them may lie, the due execution of all criminal processes, and of any civil process in any suit where the matter in dispute shall exceed £200, by the officers and persons legally empowered to execute such processes within all the territories included in this our Grant, and for the producing and delivering into safe custody, for purposes of trial, any persons in their employ, or acting under their authority within the said territories, who may be charged with any criminal offence.

And we do also hereby require, that the said Governor and Company, and William M'Gillivray, Simon M'Gillivray, and Edward Ellice shall, as soon as the same can be conveniently done, make and submit for our consideration and approval such rules and regulations for the management and carrying on the said fur trade with the Indians, and the conduct of the persons employed by them therein, as may appear to us to be effectual for gradually diminishing or ultimately preventing the sale or distribution of spirituous liquors to the Indians, and for promoting their moral and religious improvement.

And we do hereby declare, that nothing in this our Grant contained shall be deemed or construed to authorise the said Governor and Company, or William M'Gillivray, Simon M'Gillivray and Edward Ellice, or any person in their employ, to claim or exercise any trade with the Indians on the north-west coast of America to the westward of the Stony Mountains, to the prejudice or exclusion of any citizens of the United States of America who may be engaged in the said trade: Provided always, that no British subjects other than and except the said Governor and Company, and the said William M'Gillivray, Simon M'Gillivray and Edward Ellice, and the persons authorised to carry on exclusive trade by them on Grant, shall trade with the Indians within such limits during the period of this our Grant.

Given at our Court at Carlton House, the 5th day of December, 1821, in the second year of our reign,

By His Majesty's command,

(L. S.)

BATHURST.

EXTRACTS RESPECTING THE DUKE OF YORK'S PATENT OF THE LANDS AND RIVERS  
FROM THE WEST SIDE OF THE CONNECTICUT RIVER TO THE EAST SIDE OF  
DELAWARE BAY, &C., 12TH MARCH, 1674.

(From *Brodhead's History of New York*, vol. II.)

By the Treaty of Westminster the United Provinces relinquished their conquest of New Netherland to the King of England. The Sovereign Dutch States-General had treated directly with Charles as Sovereign. A question at once arose at Whitehall about the subordinate interest of the Duke of York. It was claimed by some that James's former American proprietorship was revived. Yet while the Treaty of Westminster re-established the articles of capitulation agreed to by Nicolls and Stuyvesant, who represented their sovereigns in 1664, it did not cure the imperfections, subject to which the Duke had for nine years governed his American Province. James's patent had been sealed while the Dutch were in quiet possession of New Netherland, and no new grant was made to him after the Treaty of Breda, which confirmed to the English king his conquest of the Dutch province. Eminent lawyers "very justly questioned" the Duke's pretension to the territory which England had recently recovered, because its cession to her sovereign by the Dutch Government "had given no strength to original defects." James was now obliged to give up the claim of English right which he and his brother had formerly maintained. Moreover, the Duke wished to regain New Jersey, which he had foolishly squandered on Berkeley and Carteret. Besides this, the boundary agreement with Connecticut, which had never been ratified by the Crown or by himself, was a sore point. The opinion of counsel having been taken, they advised that the Duke's proprietorship had been extinguished by the Dutch conquest, and that the King was alone seized of New Netherland, by virtue of the Treaty of Westminster. The "*Jus Postliminii*" did not obtain in New York.—(p. 260.)

A new patent to the Duke of York was therefore sealed. By it the King again conveyed to his brother the territories he had held before, and granted him anew the absolute powers of government he had formerly enjoyed over British subjects, with the like additional authority over "any other person or persons" inhabiting his province. Under the same description of boundaries, New Jersey, and all the territory west of the Connecticut River, together with Long Island and the adjacent islands, and the region of Pemaquid, were again included in the grant. The new patent did not, as has been commonly, but erroneously stated, "recite and confirm the former." It did not in any way allude to that instrument. It read as if no previous English patent had ever existed. It was a second grant, in almost the same terms with the first, and it conveyed to the Duke, ostensibly for the first time, a territory which the Dutch Government, after conquering and holding had by treaty "restored to His Majesty."—(p. 261.)

One of the motives to the Duke of York's second patent was the peculiar condition of New Jersey. James considered that his former release of that region to Berkeley and Carteret was annulled by the Dutch conquest—just as his own grant from the King had been. But both his grantees were old courtiers, and more than his match where their own interests were at stake. They played their own separate games, and eventually they beat the Duke.—(pp. 265-6.)

[The Duke of York, on the 29th of June, 1674, made a new patent to Sir Geo. Carteret, of the land westward of Long Island, and Manhattas Island, and bounded on the east part by the main sea and part by the Hudson's River, and extending southward as far as a certain creek called Barnegat, and bounded on the west in a straight line from Barnegat Creek to a creek called Rankokus Kill, in Delaware River, to the northmost branch thereof, which is in latitude  $41^{\circ} 40'$ , to a point on Hudson's River in  $41^{\circ}$  of latitude. The second grant of the Duke to Sir Geo. Carteret did not have any powers of government, but Sir Geo. Carteret stood in much the same position towards the Dutch conquerors that the Duke did himself, and his title, like the Duke's, was subject to extinguishment by the conquest. There was another ground for granting a second patent:



the country not being in the possession of the King, but in the possession of Holland at the time the first patent was granted, nothing was conveyed by it, and upon this ground a second patent became necessary.

*From Hales's History of the United States, pp. 84-86.*

King Charles II. having granted what is now the States of New York, New Jersey and Delaware, to the Duke of York, he sent an armament in 1664 to wrest it from the Dutch. After reducing New York the squadron proceeded to the settlements on the Delaware, which immediately submitted. In the same year the Duke conveyed that portion of his grant lying between the Hudson and Delaware Rivers to Lord Berkeley and Sir Geo. Carteret. This tract was called New Jersey. . . . The two proprietors formed a constitution for the colony, securing equal privileges and liberty of conscience to all. . . . A few years afterwards the repose of the colony began to be disturbed by domestic disputes; some of the inhabitants, having purchased their lands of the Indians previous to the conveyance from the Duke, refused to pay rent to the proprietors. . . . In 1672 an insurrection took place; the people assumed the government and chose a Governor. The former Governor returned to England and obtained from the proprietors such favourable concessions and promises as quieted the people and induced them again to submit to his authority.

Lord Berkeley disposed of his property, rights and privileges in the territory to Edward Billinge; and he being enveloped in debt, consented that they should be sold for the benefit of his creditors. William Penn, Gawen Lawrie, and Nicholas Lucas, were appointed trustees for that purpose. In 1676, the trustees and Sir Geo. Carteret made partition of the territory, they taking the western and he the eastern portion.

West Jersey was then divided into one hundred shares, which were separately sold. Some of the purchasers emigrated to the country, and all made great exertions to promote its population. Possessing the powers of government as well as the right of soil, they formed a constitution, in which, for the encouragement of emigrants, they secured to them ample privileges.

But previous to the transfer from Berkeley to Billinge, the Dutch being at war with England, reconquered the country and retained it, until 1674, when it was restored by treaty. A new patent was then granted to the Duke, including the same territory as the former. In 1678, Sir Edmund Andros, who had been appointed the sole Governor in America, claimed jurisdiction over the Jerseys, insisting that the conquest by the Dutch divested the proprietors of all their rights.

He forcibly seized, transported to New York, and there imprisoned those magistrates who refused to acknowledge his authority. He imposed a duty on all goods imported, and upon the property of all who came to settle in the country. Of this injustice the inhabitants loudly complained to the Duke; and at length their repeated remonstrances constrained him to refer the matter to Commissioners.

Before them the proprietors appeared. In strong language they asserted, and by strong arguments supported their claim to the privileges of freemen. They represented that the King had granted to the Duke the right of government as well as the right of soil. That the Duke had transferred the same rights to Berkeley and Carteret, and they to the present proprietors. [That is, under the first grant. Under the second grant the Duke withheld the rights of Government and granted only property in the soil.]

'That only,' they added, 'could have induced us to purchase lands and emigrate. And the reason is plain, to all prudent men, the Government of any place is more inviting than the soil; for what is good land without good laws? What but an assurance that we should enjoy civil law, religious privileges, could have tempted us to leave a cultivated country and resort to a gloomy wilderness? What have we gained, if after adventuring in the wilderness many thousands of pounds, we are yet to be taxed at the mere will and pleasure of another? What is it but to say, that people free by law under their prince at home, are at his mercy in his plantations abroad?

'We humbly say, that we have lost none of our liberty by leaving our country; that the duty imposed on us is without precedent or parallel; that, had we foreseen it, we should

have preferred any other plantation in America. Besides, there is no limit to this power; since we are, by this precedent, taxed without any law, and thereby excluded from our English right of assenting to taxes. What security have we of anything we possess? We can call nothing our own, but are tenants at will, not only for the soil, but for our personal estates. Such conduct has destroyed governments, but never raised one to any true greatness.'

"The Commissioners adjudged the duties illegal and oppressive, and they were not afterwards demanded."

"In following the course of the law of nations, this Court has declared that even in cases of conquest, the conqueror does no more than displace the sovereign and assume dominion over the country." 1 Pet. Rep. 86: (10 Pet. Rep. 720, 729-30 *passim*.)

"A cession of territory is never understood to be a cession of the property of the inhabitants. The King cedes only that which belongs to him; lands he had previously granted were not his to cede. Neither party could so understand the treaty. Neither party could consider itself as attempting a wrong to individuals condemned by the whole civilized world. The cession of a territory would be necessarily understood to pass the sovereignty only, and not to interfere with private property. (Ib. 87.) No construction of a treaty which would impair that security to private property which the laws and usages of nations would without express stipulation have conferred, would seem to be admissible, further than its positive words require. Without it the title of individuals would remain as valid under the new Government as they were under the old; and these titles, at least as far as they were consummate, might be asserted in the Courts of the United States, independently of this article." (Ib. 88, 6 Pet. S. C. Rep. 741-2; 9 Rep. S. C. Rep. 133.) *Strother vs. Lucas*, 12 Pet. S. C. Rep. 438.

Such is the difference of the Ruler as between the Rights of the Great Corporations and ordinary private holders.

#### CORRESPONDENCE BETWEEN DOMINION MINISTERS AND COLONIAL OFFICE, 1869.

*Sir George E. Cartier and Hon. Wm. McDougall to Sir F. Rogers.*

WESTMINSTER PALACE HOTEL, LONDON,  
January 16, 1869.

SIR,—We have the honour to acknowledge the receipt of your letter of the 30th ult. (with its enclosures), stating that you were directed by Earl Granville to transmit to us a copy of a letter which his lordship had received from the Deputy-Chairman of the Hudson's Bay Company, relating to some steps which have been taken under the authority of the Canadian Government, and from which the Company apprehend some invasion of their territorial rights.

You inform us that his lordship will be glad to receive from us any explanation which we may be able to furnish him, of the steps taken by the Canadian Government.

We have read the letter of the Deputy-Chairman, and extracts from the letters of Governor McTavish, and have much pleasure in being able to furnish his lordship with what we hope will prove satisfactory information on the subject of the Hudson's Bay Company's complaint.

1. In the month of September last very precise information reached the Canadian Government that, in consequence of the complete destruction of their crops by locusts,



the people of the Red River settlement, numbering probably from 12,000 to 15,000 souls, were in imminent danger of starvation during the winter about to set in.

2. Numerous and earnest appeals for aid had already been made to the Canadian public by writers in the newspapers, and by clergymen and others acquainted with the country. The Right Reverend Robert Machray, Lord Bishop of Rupert's Land, a member of the Council of Assiniboia, and so far a representative of the Company, visited Ottawa, and urged upon members of the Canadian Government the duty of prompt assistance to avert the threatened calamity.

3. No steps had been taken (so far as the Government could learn) by the Hudson's Bay Company, to provide supplies, and, aware that a few days' delay at that season might render it impossible to get provisions to Red River in time to afford relief, the Canadian Government appropriated the sum of twenty thousand dollars (\$20,000) towards the construction of a road from Lake of the Woods to Fort Garry. The Minister of Public Works (one of the undersigned) was directed to expend the principal part of this sum in the purchase of provisions, which were to be forwarded with all possible despatch to the Red River Settlement, and offered to the settlers, not as alms, but in exchange for their labour on a public work in their own vicinity, and of the highest utility to their settlement.

4. A confidential and experienced agent proceeded at once to St. Paul's, Minnesota, and succeeded in forwarding a considerable supply of provisions before the close of navigation. A further quantity had reached Fort Abercrombie, an American post in Dakota territory, from which point it can be sent to the settlement early in the spring.

5. Information has reached the undersigned since their arrival in England, that the Government Agent had, in accordance with his instructions, conferred with the local authorities on his arrival at Fort Garry; that he had received their approval and promise of assistance; that his timely aid was a cause of much joy and thankfulness in the settlement; and that he had proceeded with a large force of labourers to the limit of the prairie country, some thirty miles from Fort Garry, towards Lake of the Woods, and had there commenced the construction of the road.

6. The immediate object of the Canadian Government in taking the steps complained of, was to supply food to a starving community about to be imprisoned for six months in the heart of a great wilderness, without roads or means of communication with their fellow-subjects, and to supply it in the way most acceptable to a high-spirited people, viz., in exchange for their labour. It was thought that even the Hudson's Bay Company might look with favour upon a public work which, when completed, will prove a valuable protection to those under their government, against similar dangers in the future. On behalf of the Canadian Government, we deny that a "trespass" has been committed, or that our action in this matter was intended to forestall or embarrass negotiations, which the Imperial Parliament has directed to be undertaken for the transfer of the North-Western territories and Rupert's Land to the Dominion of Canada.

The foregoing explanation may perhaps be deemed sufficient to enable Earl Granville to answer the complaint of the Hudson's Bay Company against the Canadian Government; but the undersigned beg leave to add one or two observations which, in their opinion, this extraordinary demand for the "intervention of Her Majesty's Government," both invites and justifies. If the Hudson's Bay Company, who claim the right to hold and govern the territory in which the alleged "trespass" has taken place, had performed the first duty of a government towards its people, by providing them with easy means of communication with the outer world, or if they had shown themselves either able or willing to meet the threatened calamity by a prompt effort to forward sufficient supplies to the settlement before the close of navigation, the Canadian Government would have rested happy in the belief that neither humanity nor public policy required or justified their interference.

The assertion of the Deputy-Governor of the Hudson's Bay Company, that the country between Lake of the Woods and Red River is "the freehold territory of the Company," and that the so-called "trespass" of the Canadian Government in sending provisions to the starving settlers, and assisting them to make a road for their own convenience and safety hereafter, is "an actual encroachment on the soil of the Company," might, if unnoticed by us, be claimed as another proof or admission of the rights of the Company in

that part of the continent. We, therefore, beg to remind his lordship that the boundaries of Upper Canada on the north and west, were declared, under the authority of the Constitutional Act of 1791, to include "all the territory to the westward and southward" of the "boundary line of Hudson's Bay, to the utmost extent of the country commonly called or known by the name of Canada." Whatever doubt may exist as to the "utmost extent" of old, or French Canada, no impartial investigator of the evidence in the case can doubt that it extended to, and included, the country between Lake of the Woods and Red River.

The Government of Canada, therefore, does not admit, but, on the contrary, denies, and has always denied, the pretensions of the Hudson's Bay Company to any right of soil beyond that of squatters, in the territory through which the road complained of is being constructed.

We have, &c.,

(Signed)

G. E. CARTIER.

WM. McDougall.

Sir Frederic Rogers, Bart., &c.,  
Colonial Office.

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*Letter from Sir Stafford H. Northcote to Sir Frederic Rogers, Bart.*

HUDSON'S BAY HOUSE, LONDON,  
February 2nd, 1869.

SIR,—I have the honour to acknowledge your letter of the 28th January, addressed to the Deputy-Governor of this Company, enclosing a communication from Sir G. Cartier and Mr. McDougall, on the subject of the recent proceedings of the Canadian Government in the matter of the construction of a road through the Company's territory between Fort Garry and the Lake of the Woods.

After the distinct statement contained in Sir Curtis Lampson's letter of the 22nd December, that the Company, while protesting against a trespass on their land, were prepared favourably to entertain any application for permission to make such a road, either on the part of the Imperial or of the Canadian Government, the Committee think it unnecessary to discuss the greater portion of the letter of the Canadian Ministers. Their objection is not to the road being made, but to its being undertaken by the Canadian Government as a matter of right, as though the territory through which it is to pass were Canadian. Such a step, taken at a moment when negotiations are in progress for the transfer of the Company's possessions to Canada, and taken by a Government which openly disputes their title to this portion of them, could not have been allowed to pass unchallenged without derogating from the Company's rights. The Canadian Government themselves seem to have been alive to this. Mr. McTavish states that the agent of that Government (Mr. Snow), on arriving at the Red River, communicated to him his instructions from the Commissioner of Public Works in Canada, containing the expression of "a hope on the part of the Commissioner, that the Company's Agent here would offer no opposition to Mr. Snow's operations, but would leave the matter entirely in the hands of the Imperial Government." Governor McTavish, upon this, very properly allowed Mr. Snow to commence his operations; and so far as this Company is concerned, no impediment has been, or will be, offered to the prosecution of the work.

If it were worth while to discuss that part of the letter of the Canadian Ministers which refers to the circumstances under which the construction of the road was ordered, the Committee would be able to show that the Company had in no way failed in their duty to the Colony; but that they had promptly taken measures for the relief of its inhabitants, and had supplied large sums, both by direct grants and by subscriptions raised under their auspices for that purpose, at a period anterior to the appropriation of the Canadian road grant. They would also be able to point out how the delay which has occurred in opening up communications and otherwise developing the resources of the Red River Settlement, is due



to the restraint which has been imposed upon them by her Majesty's Government, at the request of Canada, and not to any negligence or indifference of their own.

But the Committee desire to avoid the raising of a false issue, and they accordingly instruct me to re-state to Earl Granville the precise complaint which they have to make. It is this : that while negotiations are going on for the acquisition of their territory by Canada, the Canadian Government are endeavouring to exercise rights of ownership over a portion of that territory, to the exclusion of the Company, and to the prejudice of their title. This they are doing by virtue of an old claim which they have repeatedly advanced, which the Company have invariably disputed, and have declared themselves ready to contest before a court of law, and which her Majesty's Government, acting under the advice of various Law Officers of the Crown, have declined to endorse.

The Canadian Government have hitherto shown no inclination to bring their claim to the test of a judicial decision, and in the absence of any such decision, the Committee consider it not unreasonable to ask that due respect should be paid by the Company's uninterrupted possession of the territory for two centuries, and to the numerous and weighty legal opinions which have from time to time been given in their favour.

In appealing to Earl Granville for support in this matter, instead of entering into a controversy with Canada, or taking legal steps to enforce the Company's rights, the Committee have been actuated by a desire to proceed as far as possible in accordance with the views and wishes of her Majesty's Government, as they have endeavoured to do throughout the pending negotiations for the establishment of a settled form of Government at the Red River. They desire now respectfully, but confidently, to claim the support and protection of the Colonial Minister against any invasion of the Company's rights which may have been prompted or facilitated by the policy which they have adopted in order to meet the wishes of the Colonial Office.

I have, &c.,

STAFFORD H. NORTHCOTE.

Sir Frederic Rogers, Bart.

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*Sir S. Northcote to Sir F. Rogers.*

HUDSON'S BAY HOUSE, LONDON,  
January 13th, 1869.

SIR,—I have the honour to acquaint you, for the information of Earl Granville, that I was elected by the shareholders of this Company, on Tuesday, the 5th instant, to the office of Governor, vacant by the resignation of the Earl of Kimberley.

It now becomes my duty to address you in reply to Mr. Adderley's letter, dated the 1st December, 1868, which was received by my predecessor on the eve of his resignation, and to which, in consequence of that event, the Committee have not been able to send an earlier answer.

Before making any observations upon the particular topics discussed in Mr. Adderley's letter, I am desired by the Committee to assure Lord Granville that they continue sincerely anxious to promote the object with a view to which this Company was reconstructed five-and-a-half years ago, viz., the gradual settlement of such portions of their territory as admit of colonization; that they adhere to the opinion expressed in their resolution of the 28th August, 1863, viz., that the time has come when it is expedient that the authority, executive and judicial, over the Red River Settlement, and the south-western portion of Rupert's Land, should be vested in officers deriving such authority directly from the Crown; and that they cheerfully accept the decision of her Majesty's Government, communicated to them in Mr. Adderley's letter of the 23rd April, 1868, viz., that the whole of the Company's territory should, under proper conditions, be united with the Dominion of Canada, and placed under the authority of the Canadian Parliament.

Acting in accordance with the wish of Her Majesty's Government as conveyed to them in Mr. Elliott's letter of the 23rd January, 1867, the Committee have declined to encourage overtures which have been made to them by private persons for the purchase

of portions of the Company's territory with a view to their colonisation, and have kept the whole question in abeyance during the time that the negotiations which have led to the confederation of the British Provinces constituting the Dominion of Canada, were proceeding. In the whole of that time they have taken no step which could give rise to fresh complications, or could place any new difficulty in the way of the admission of their territory into the confederation when the proper moment should arrive; and when they were informed by Mr. Adderley's letter of the 23rd of April, that the Parliament of Canada had addressed Her Majesty upon this subject, and were requested to state the terms which the Company would be prepared to accept, proceeding on the principle adopted in the interrupted negotiation of 1864, they unhesitatingly complied with the desire of the Government.

It is therefore with surprise, as well as with regret, that they have learnt from the letter now under reply that the terms proposed by them, even when most strictly in conformity with the principles adopted in 1864, are considered by Her Majesty's Government to be inadmissible, and not to afford much prospect of an arrangement being come to. They find, for instance, that the stipulation that the Company should receive one shilling per acre on lands hereafter sold, which was originally suggested to the Committee by His Grace the late Duke of Newcastle, in Mr. Fortescue's letter of March 11th, 1864, and which has never hitherto been called in question, is the first point to which exception is now taken. Objections are also raised against several other proposals which have been long before the Government, while no notice at all is taken of some which have been made for the first time with a view to the protection of the Company's trade, and with regard to which the Committee are left in ignorance whether they are considerable admissible or not.

The Committee, although somewhat embarrassed by this apparent change in the spirit of the correspondence, desire me, however, to make the following observations upon some of the remarks contained in Mr. Adderley's letter, in order that there may be no misapprehension as to the bearing of their proposals:

The Committee are aware that, as is stated in Mr. Adderley's letter, in order to prepare the country for settlement, very considerable annual outlay will have to be incurred, and that for this charge, the produce of the early sales of lands is the natural resource; but they are at a loss to understand upon what ground it is alleged that their proposals would deprive the future Government of the ceded territory of "any prospect" for a long time at least "of receiving any income."

The only part of the territory in which it is probable that an early or extensive settlement will take place, is the part known as the Fertile Belt. It has been confidently asserted by independent persons who have travelled through the country, that a great part of this land is not inferior in quality, or in advantages of climate, to the adjoining United States territory now forming the State of Minnesota, and it has been justly pointed out that, being prairie land, it does not require much labour to render it fit for cultivation. But the price of land in Minnesota ranges, as the Committee are informed, from five shillings to one pound per acre. The Committee think, therefore, that the fixed payment of one shilling per acre, proposed by the Duke of Newcastle, and accepted by them as a basis of compensation, cannot be deemed to be unreasonable in so far as related to land sold within the limits set forth in Sir Edmund Head's letter of the 11th of November, 1863.

As regards any portions of land lying outside those limits, which may possibly be sold, the Committee think it very improbable that such sales will take place except for mining purposes, in which case the payment of a shilling per acre could hardly be deemed excessive. In order to save trouble and obviate disputes, therefore, the Committee proposed the fixed payment of one shilling per acre in respect of all sales wherever they may take place, and they believe that the arrangement would have been, on the whole, more favourable to Canada than that suggested by Mr. Adderley.

Mr. Adderley proceeds to remark with reference to Lord Kimberley's proposal, that the Company should retain certain reserves around their posts; that the reservations would amount to upwards of 500,000 acres. It was, however, stated by Lord Kimberley and the Deputy-Governor, at an interview with the Duke of Buckingham upon this subject, that the Committee were willing to confine their claim for reserves to the limits defined by Sir Edmund Head's letter of the 11th November, 1863; that they were prepared to agree that such



reservations should be measured by the importance of the posts to which they were to be attached, and should in no case exceed 3,000 acres. The total quantity of land to be retained by the Company under this arrangement would not exceed 50,000 acres. The Committee cannot agree to the absolute exclusion of these reserves from all frontage to "rivers or tracks, roads or portages," which would render them entirely valueless, although they would have been ready to consider any reasonable limitation of these special advantages.

As regards the right of selecting lands for the Company in proportion to the quantities sold from time to time by the Government, the Committee desire to call Lord Granville's attention to the reasons given in Sir E. Head's letter of the 13th April, 1864, for adopting this mode of reservation in preference to that of "setting apart beforehand a number of isolated tracts of wild land, dotted over the surface of the colony, and calculated to impede the free flow of settlement in the territory." Their proposal was framed with reference to sales in the fertile belt only, and it never entered into their minds to contemplate such contingencies as those suggested by Mr. Adderley's letter. In order, however, to obviate all cavil upon this point, they would have been quite willing to limit the Company's right of selection to the case of lands sold or alienated within Sir E. Head's limits, provided that it were agreed that no alienations should take place beyond those limits, except either for distinctly public purposes or for the *bona fide* carrying on of agricultural or mining operations. As regards Mr. Adderley's proposal that the right of selection should be confined to five lots of 200 acres each, in each township as it is set out, the Committee can only remark that the character of this proposal must depend upon the size of the township, of which no indication has been given.

The Committee still adhere to the opinion that under the peculiar circumstances of the proposed transfer of their territory it would be reasonable that their wild lands should, for a limited time, be exempt from taxation, in order to allow them a fair opportunity of bringing them into profitable cultivation.

They observe that Mr. Adderley makes no reference to the tenth stipulation contained in Lord Kimberley's letter of the 13th May, viz., that until the stipulated sum of £1,000,000 sterling has been paid to the Company, no export duties shall be levied by Canada upon furs exported by the Company, nor any import duties on articles imported by them, into the North Western territory, and into that part of Rupert's Land which is not included within the geographical limits laid down in Sir Edmund Head's letter of November 11th, 1863. This is a point to which the Committee attached very great importance. If it had been proposed by the Canadian Government to make a direct purchase of the Company's territory, and to pay the price for it at once, the Company would of course have accepted their fair share of the burdens which annexation might be expected to involve. But if the purchase money is to be withheld until the Canadian Government have sold off 20,000,000 acres of the land, or have realized a considerable sum by the produce of mining operations, it is reasonable that the pressure of the fiscal burdens, which would fall almost exclusively upon the Company's trade, should be suspended also. Otherwise it might happen that, in consequence of the neglect or the inability of the Canadian Government to proceed with the settlement of the territory, the Company would be subjected to very heavy contributions to the colonial treasury without receiving the smallest benefit in return. As an illustration of the extent to which they might thus be injured were no limitation placed upon the colonial power of taxation, I may observe that, according to the present Canadian tariff, the duty upon the value of the Company's imports alone would amount to about £20,000 a year, while any export duty that might be laid upon their furs would operate still further to their disadvantage. The Committee feel confident that Lord Granville will acknowledge the reasonableness of their taking precautions against such a contingency.

The Committee have desired me to offer to Lord Granville these explanations of their proposals, in order to show that they have done their best to comply with the desire of Her Majesty's Government, that they should submit a scheme founded on the principles of the negotiations of 1864. They have not, however, failed to perceive from an early period of the lengthened correspondence which has taken place between them and the Government, that those principles necessarily gave rise to many difficulties; and they have felt this the more strongly since the negotiations originally commenced between the Company and Her Majesty's Government have virtually become negotiations between the Company and the Government

of Canada. They cannot disguise from themselves the danger which exists that arrangements so complicated, and involving so many topics for future discussion, are likely to lead to the Company's being placed in a position of antagonism to the Government of Canada, and to the creation of a state of things injurious not only to their own interests but to the welfare of the country itself. They are sincerely anxious to co-operate with the Canadian Government in the settlement, development and improvement of the territories with which they have been so long connected, and they believe that, if the arrangement between them can be placed on a satisfactory footing, it will be in their power to render material assistance to the Colonial authorities in this respect. They believe that, if a simpler arrangement than that which has recently been under discussion could be adopted, and if the Canadian Government were prepared to complete the purchase of the territory at once, by the payment of a sum of money or by the delivery of bonds, it would conduce to a more satisfactory result than the prolongation of a controversy as to the minute points of such a scheme as has been under consideration.

Should Lord Granville be of this opinion, and should his Lordship think it desirable to recommend any proposal of the kind to the Canadian Delegates, this Committee will gladly place themselves in fuller communication with him on the subject.

I have, &c.,  
(Signed) STAFFORD H. NORTHCOTE,  
Governor.

Sir Frederic Rogers, Bart.

*Sir F. Rogers to Sir G. Cartier and Hon. Wm. McDougall.*

DOWNING STREET, 18th January, 1869.

GENTLEMEN,—I am directed by Earl Granville to transmit to you, for any observations which you may wish to offer upon it, the enclosed copy of a letter from the Hudson's Bay Company in answer to the proposals made to them by the Duke of Buckingham and Chandos in the letter from this Department of the 1st of December last, with respect to the proposed cession to the Crown of the Company's territorial rights in British North America.

I am, Gentlemen,  
Your obedient servant,  
(Signed) FREDERIC ROGERS.

Sir G. E. Cartier, Bart.,  
W. McDougall, Esq., C.B.

*Sir Geo. E. Cartier and Hon. Wm. McDougall to Sir F. Rogers.*

WESTMINSTER PALACE HOTEL,  
LONDON, February 8th, 1869.

SIR,—We have the honour to acknowledge the receipt of your letter of the 18th ultimo, enclosing a copy of Sir Stafford Northcote's letter of the 13th ultimo, in reply to proposals made to the Hudson's Bay Company for the cession to the Crown of their territorial rights in British America, by His Grace the Duke of Buckingham and Chandos, in the letter of Mr. Adderley of 1st December last.

You state that Earl Granville directed you to transmit this document to us for any observations which we may wish to offer upon it. His Lordship's courtesy and consideration in sending us a copy of Sir Stafford Northcote's letter and inviting us to express our views upon it are gratefully acknowledged, but upon reflection we thought it would be expedient to refrain from any formal expression of our opinion on new and indefinite propositions, until we had received some intimation of the view which his Lordship was likely himself to take of them, or of the policy in respect to the general question which her Majesty's present advisers intend to adopt.



At an interview with which we were favoured by Earl Granville on the 26th ultimo, he expressed his preference for a less complicated mode of dealing with the Hudson's Bay question than that proposed by the Duke of Buckingham and Chandos, and requested us to communicate to him our observations on the reply of Sir Stafford Northcote, and especially on the proposition with which his letter concludes, viz., that the Canadian Government should "complete the purchase of the territory at once, by a payment of a sum of money or by the delivery of bonds."

As we have had but few opportunities to confer with his Lordship since his accession to office, it may be proper, before considering Sir Stafford Northcote's letter, to state the position of the Canadian Government, as we apprehend it, in this negotiation.

The British North America Act of 1867, affirmed the policy of uniting under one government all the colonies, provinces, and territories of British North America. Three provinces were united at once, and provision was made by the 146th section, for the admission into the union, of the remaining colonies, on address to her Majesty by their respective Legislatures and the Parliament of Canada.

The North-West territories and Rupert's Land, or either of them, are to be admitted on the address of the Parliament of Canada alone, and on such terms and conditions as the Canadian Parliament may, in its address, express, and her Majesty approve.

In pursuance of the policy of the Imperial Parliament thus distinctly affirmed, the Canadian Parliament at its first session under the new constitution, adopted an address to her Majesty for the incorporation of the North-West territory and Rupert's Land with the Dominion of Canada. The terms and conditions expressed in the address were—

1st. That Canada should undertake the duties and obligations of Government and legislation in respect of those territories.

2nd. That the legal rights of any corporation, company, or individual within the territory should be respected, and that provision should be made for that purpose by placing those rights under the protection of courts of competent jurisdiction.

3rd. That the claims of the Indian tribes to compensation for lands required for purposes of settlement should be considered and settled, in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

The above were the only terms and conditions which, in the opinion of the Canadian Parliament, it was expedient to insert in the Order in Council, authorised by the 146th section.

His Grace the Duke of Buckingham and Chandos, on receiving the address of the Canadian Parliament, consulted the law officers of the Crown, who advised, among other things, "that there would be much difficulty created by the existence of the Charter" of the Hudson Bay Company, to "putting into execution the powers of the 140th (146th) section of the British America Act, 1867, assuming that the Hudson's Bay Company were adverse to the union."

A bill was thereupon carried through the Imperial Parliament, apparently to remove the "difficulties" which the law officers had discovered. It reverses the order of procedure contemplated by the Act of 1867, and observed by the Canadian Parliament in its address, and makes the assent of the Company a condition precedent to the transfer.

The Canadian Government were not consulted as to the terms of this Act; they could not understand why it was necessary, and greatly doubted the expediency of passing it.

The Duke of Buckingham and Chandos, having opened negotiations with the Hudson's Bay Company under the authority of the Act last mentioned, invited a delegation from the Canadian Government to confer with him in this country. The undersigned, duly commissioned for that purpose, repaired to London in October last, and had frequent interviews with his Grace before his retirement from office.

The proposals submitted to the Company by the late Government in the letter of Mr. Adderley of the 1st December last, were not made at our suggestion, although we were disposed to think (and so informed his Grace) that if the Company accepted them, the Canadian Parliament might be persuaded to undertake the duties of legislation and government in the territories on the conditions specified.

The Company, through Sir Stafford Northcote, have declined to accept either the principle or the mode of settlement proposed by the late Government, but suggest a new and summary method of closing the negotiations, by demanding that the Canadian

Government should, by a payment in cash or bonds, "complete the purchase of the territory at once." No sum is mentioned, and no data given from which it can be inferred. Under these circumstances, we are asked, as representatives of the Canadian Government, to communicate to Earl Granville any observations we may wish to offer on this reply and proposition of the Company.

His Lordship will readily perceive from the foregoing recital, that as representatives of the Canadian Government, we are in the position of spectators of a negotiation, begun and carried on upon principles and under conditions to which we are strangers, rather than that of assenting principals, responsible for its initiation and bound by its results.

Without undertaking, therefore, that our views on every point will be approved by the Canadian Government, we proceed most respectfully to offer a few observations on Sir Stafford Northcote's reply to the recent proposals of the Imperial Government.

It will be observed that two things are assumed in these proposals to the Company, which the Canadian Government have always disputed.

1st. That the Charter of Charles II. is still valid, and grants the right of soil, or freehold, of Rupert's Land to the Company.

2nd. That Rupert's Land includes the so-called "Fertile Belt," extending from the Lake of the Woods to the Rocky Mountains.

The law officers of the Crown in England have, on two or three occasions, given their opinion in favour of the first assumption, but never, so far as we are aware, in favour of the second. The report of the law officers in 1857 admits that the geographical extent of the territory granted must be determined by excluding the country that "could have been rightfully claimed by the French as falling within the boundaries of Canada," (which the Charter itself excludes by express words), and states that "the assertion of ownership on important public occasions, as at the treaties of Ryswick and Utrecht," should be considered; and also "the effect of the Acts of 1774 and 1791." The most recent opinion of the law officers of the Crown which we have seen (January 6th, 1868), as to the rights of the Hudson's Bay Company, does not even by implication support their present claim to the fee-simple of nearly one-third of the American continent. On the contrary, Sir John Karslake and his colleagues conclude their report with the emphatic statement that it is "very necessary, before any union of Rupert's Land with Canada is effected, that the true limits of the territory and possessions held under the charter should be accurately defined." An assumption, therefore, which covers so much ground, and is unsupported by any competent legal authority; which ignores the repeated protests and claims of Canada, and seeks to supply a basis upon which a surrender for valuable consideration may be made, is, to say the least, a most favourable assumption for the Company. We notice these points in Mr. Adderley's letter before remarking on Sir Stafford Northcote's reply, to prevent the possible inference that we have acquiesced in them.

Sir Stafford Northcote assures Lord Granville that the Company "continues sincerely anxious to promote the object with a view to which the Company was re-constructed five and a-half years ago, viz., the gradual settlement of such portions of their territory as admit of colonization." It would be tedious to quote the numerous and positive averments by members and governors of the Hudson's Bay Company, in the course of official inquiries during the last fifty years, that their territories (in which they included the Red River and the Saskatchewan districts) are totally unfit for colonization. The evidence of Sir George Simpson before the House of Commons Committee of 1857, is a fair sample of the views heretofore entertained and avowed by the representatives of the Company. (*Vide* Commons Report, 1857; Questions 716, 717, 718, 719, &c.) Mr. Ellice, for many years the ruling spirit of the Company, declared before the same committee that the Red River settlement was an "unwise speculation," and "had failed;" that "the climate is not favourable;" that the Saskatchewan is a country capable of settlement only when "the population of America becomes so dense that they are forced into situations less fit for settlement than those they occupy now;" that the winters are "rigorous," and the country "badly off for fuel," &c. (Questions 5,840 and 5,847.)

With such views of the unfitness of the country for settlement, and avowing their belief that colonization and the fur trade could not exist together, it is not surprising that the Company have always cherished the latter, which was profitable, and discouraged, and, as far as possible, prevented, the former, which had proved an "unwise speculation." It is true



that the Company was "re-constructed" in 1863, with loud promises of a new policy. A great road across the continent was to be made, a telegraph line was to be put up, and emigration and colonization developed on a large scale. The Duke of Newcastle, then Secretary of State for the Colonies, was so much impressed by the zeal and public spirit of the gentlemen who effected the re-construction, that he wrote despatches to the Canadian Government on their behalf, and evidently believed that a new era was about to open in the North-West, and the wild animals and fur traders retreat before the march of "European" settlers. The stock of the old Company, worth in the market about £1,000,000, was bought up, and by some process which we are unable to describe, became £2,000,000. A show of anxiety to open postal and telegraphic communication was made, and "heads of proposals" were submitted to the Governments of Canada and British Columbia, which on examination were found to embrace a line of telegraph only, with the modest suggestion that the two Governments should guarantee the Company a profit of not less than 4 per cent. on their expenditure! A proposal so absurd could only have been made to be rejected, and it was rejected accordingly. The surplus capital of the re-constructed Company, which was called up for the avowed purpose of opening their territories to "European colonization, under a liberal and systematic scheme of land settlement," has never been applied to that purpose. Five and a half years have passed since the grand scheme was announced to the world, but no European emigrants have been sent out, no attempts to colonize have been made. Sir Stafford Northcote was not probably aware, when he vouched for the *bona fides* of the Hudson's Bay Company as promoters of colonization, that a solemn vote of the shareholders was taken in the month of November, 1866, which condemned and rejected the policy of colonization, absolutely and definitively.

While unable, for the reasons stated, to concur in Sir Stafford Northcote's assurance that the Hudson's Bay Company are anxious to promote colonization, we are gratified to learn that they "adhere" to the resolution of 28th August, 1863, that the time has come when it is expedient that "the authority executive and judicial over the Red River Settlement and the South-Western portion of Rupert's Land, should be vested in officers deriving such authority directly from the Crown."

The first remark we have to make upon this reference to the resolution of 1863 is, that it admits the continued incapacity of the Company as a governing power; the second, that if this was true in 1863,—if at that time it became expedient to substitute the authority of the Crown for that of the Company,—it is much more expedient, if not absolutely necessary, now; and third, that if the Company are to be relieved of the duty and cost of government which their Charter imposes, and which they admit they do not and cannot properly discharge, compensation should be made, not to the Company, as is claimed, but *by* the Company to those who take the burden off their shoulders.

We confess we have failed to discover any evidence, and therefore cannot believe that the Company have "cheerfully" accepted the decision of Her Majesty's Government, "that the whole of the Company's territory should, under proper conditions, be united with Canada." A brief notice of the *acts* in contrast with the *professions* of the Company will, we think, account for the ill success of our researches and justify our incredulity.

The representatives of the Company, while declaring before the House of Commons Committee in 1857 (as we have already shown) that their territories were "unfit for settlement," professed their readiness to surrender any portion of them that might be desired by the Imperial or Canadian Government for that purpose.

Mr. Ellice declared in the most unqualified terms, not only that the Company was willing to surrender, but that it was the duty of the Government to see that no mere trading corporation obstructed "for one moment," nor to the extent of "one acre of land fit for settlement," the "dominion of the actual settlers." (Commons Report, 1857; questions 5,859, 5,860 and 5,933.)

The Governor of the Company informed the Colonial Secretary (18th July, 1857), that any inquiry into the "geographical extent of the territory granted by their Charter," which the law officers had recommended, was of little importance, because, if the object of the inquiry was "to obtain for Canada land fit for cultivation and the establishment of agricultural settlers, the Directors are already prepared to recommend to the shareholders of the Company to cede any lands which may be required for that purpose. The terms of such cession," he

assured Mr. Labouchere, "would be a matter of no difficulty between her Majesty's Government and the Company."

Mr. Ellice had previously told the House of Commons Committee, that the question of boundary was "of no importance at all," because "if the Province of Canada requires any part of the territory, or the whole of it, for purposes of settlement, it ought not to be permitted for one moment to remain in the hands of the Hudson's Bay Company." He added that "less money than would be spent in a litigation upon the subject would be sufficient to indemnify the Hudson's Bay Company for any claim which they could have on giving up any disputed part of their territory."

These assurances induced the Committee to negative propositions for ascertaining by a judicial inquiry the validity of the Charter, or the position of boundaries, and to report in favour of annexing to Canada "such portion of the land in her neighbourhood as may be available to her for the purposes of settlement, with which she is willing to open and maintain communication, and for which she will provide the means of local administration." The Committee "trusted that there would be no difficulty in effecting arrangements as between Her Majesty's Government and the Hudson's Bay Company for ceding the territory on equitable principles."

It may be proper to remind Earl Granville, that leading members of the Committee of 1857, taking the offers of the Company on the subject of colonization to mean what the language of the representatives imported, strongly opposed the recommendation to leave the question open for "amicable adjustment" upon "equitable principles," with the certainty of protracted negotiations and a chance of ultimate disagreement. Mr. Gladstone accordingly submitted resolutions for a prompt and definite settlement of the whole question. He proposed—

1st. "That the country capable of colonization should be withdrawn from the jurisdiction of the Hudson's Bay Company."

2nd. "That the country incapable of colonization should remain within their jurisdiction."

He proposed that in the country remaining within their jurisdiction power should be reserved to Her Majesty's Government to make grants "for the purposes of mines and fisheries, but with due regard to the immunities and trade of the Company." No "immunities" were even suggested with respect to the country which was to be withdrawn for colonization. He proposed to ignore the Charter, by declaring that the jurisdiction of the Company "should rest henceforth upon the basis of statute." He quoted the Governor's letter above referred to, "as an expression of the willingness of the Company to accept in principle the arrangement" he proposed, and ended with the suggestion that, "as the Company had tendered concessions which may prove sufficient to meet the case," no decision seemed necessary as to the question of raising a "judicial issue with the view of ascertaining the legal rights of the Company." The propositions of Mr. Gladstone were only lost in the Committee by the casting vote of the chairman.

Twelve years have passed since these offers were made by the Company and accepted by a Committee of Parliament. Every Colonial Secretary, from 1858 to the present moment, has attempted to carry out the recommendation of the Committee, with the assent of the Company, but without success. Two Acts of the Imperial Parliament have been passed, with provisions to facilitate the arrangement, but are yet without fruit. Sir Edward Bulwer (Lord Lytton) characterised the offers of the Company during his administration as "illusory," and declared that they "by no means met the exigencies of the case." He expressed his regret at a determination on their part which retains the very difficulty in the way of speedy and amicable settlement which he had sought to remove, and stated that if Canada declined to resort to "legal proceedings (which he had recommended) it would be his duty to consider whether negotiations with the Company can be resumed, or whether in the last resort Her Majesty's Government must take the matter into their own hands and proceed on their own account." (Mr. Merivale's letter to H. H. Berens, 9th March, 1859.) Sir Edward remained in office long enough to put an end to the Company's license of exclusive trade in British Columbia and the Indian territories, but not long enough to carry out his policy of "connecting the two sides of British North America without the obstacle interposed by a proprietary jurisdiction between them."

The Duke of Newcastle opened negotiations with the Company in 1863-4 with much



vigour. But after various proposals and counter-proposals, including the "reconstruction" of the Company, he was obliged to treat their propositions as "inadmissible."

Mr. Cardwell, during his administration, could not accept their proposals "without considerable modifications."

The Duke of Buckingham, after many discussions with the representatives of the Company, regretted to perceive that their proposals "did not afford much prospect of an arrangement being come to;" and in the communication to which the letter of Sir Stafford Northcote is a reply, declared himself "unable to recommend the adoption" of the terms demanded by the Company.

Our notice of what, in Sir Stafford Northcote's opinion, constitutes a "cheerful" acceptance of the decision of her Majesty's Government, would be incomplete, if we did not remind Earl Granville that the Company's "proper conditions" for the surrender of that portion of the North-Western territories, for which they can show no title but such as may be derived from the possession of a few trading-posts, established there within the last fifty years, rose from a question of "no importance at all," in 1857, or at most, of "less money than would be spent in a litigation on the subject," (House of Commons Report, Question 5,834,) to the retention, in 1863, in fee-simple, of *half* the land proposed to be surrendered, with various other conditions, including a guarantee by the Governments of Canada and British Columbia, of an annual profit on the Company's expenditures for improvements on their own property! In 1864, these conditions took the form of a demand, first, to be paid £1,000,000 sterling, from sales of lands and mines, with large reservations "to be selected by them," &c.; and, secondly, to be paid £1,000,000 sterling in cash, with other terms and reservations favourable to the Company.

In 1868, these conditions for the surrender of territorial and governing rights over the *whole* territory, remained at £1,000,000, as in the first proposition of 1864, with large reservations of land at "selected" points, specially exempted from taxation, and with full liberty to carry on their trade free from the export and import duties, to which all other subjects of her Majesty in that country would be exposed.

In 1869, these various proposals, which no Secretary of State could possibly entertain, have all been apparently merged in one grand proposition to sell out "the territory at once for a sum of money," in cash or bonds, the amount of which is not stated.

We content ourselves under this head with the observation, that whatever others may be able to see in all these transactions, we are utterly unable to discover either a cheerful acceptance of the decision of any Government, or an honest disposition to fulfil the solemn pledges made to Parliament in 1857, on the faith of which the Company was unquestionably saved from judicial or legislative extinction.

Sir Stafford Northcote claims credit for the Company because they have "declined to encourage overtures which have been made to them by private persons for the purchase of portions of the Company's territory with a view to their colonization." Our information is (and we can give Earl Granville names and dates, if the point is deemed of any importance) that the only "overtures" of the kind mentioned which the Company have received, were not merely "encouraged," but suggested and concocted by prominent members of the Company, for the purpose of producing an impression on the Government, and with a view, not to colonization, but to *negotiation* and the Stock Market.

We are not sure that we understand the statement of Sir Stafford Northcote that the Company "have taken no step which would give rise to fresh complications or place any new difficulty in the way of the admission of their territory into the Confederation." The sale of land to private parties for colonization (assuming that *bona fide* offers have been received from such parties) could not give rise to much complication, except in the affairs of the Company. If Sir Stafford hints at the negotiations which were lately reported to be going on with certain American speculators in London for denationalizing and Americanizing the Company with a view to the "admission of their territory" into the United States, instead of the Confederation, we respectfully submit that while such a difficulty might indeed be "new," the proper person to solve it would be Her Majesty's Attorney-General, with the aid of a court and jury of competent jurisdiction.

We do not understand that Earl Granville expects us to defend in detail the Duke of Buckingham's proposals, or to answer all the objections made to them by Sir Stafford Northcote. The Government of Canada, as we have already reminded his lordship, neither

suggested the Act of Parliament nor the terms of the negotiation, which the late Secretary of State for the Colonies attempted to carry out under its authority. The Canadian plan of dealing with the question of the North-Western Territory and Rupert's Land, is set forth in the address of the Canadian Parliament to her Most Gracious Majesty, and we do not feel at liberty, as representatives, to suggest any other mode, until we are informed by her Majesty's Government that the one proposed is deemed impracticable.

Sir Stafford Northcote's suggestion that "the payment of a sum of money" for the purchase of the territory, would conduce to a more satisfactory result, is, we believe, the point upon which Earl Grenville specially desires to have our views. Assuming that by "territory," he means the *whole* territory to which the Company lay claim, and that they are to continue as a trading corporation, retaining their posts, and allotments of land in their neighbourhood, as he states was agreed upon by the Duke of Buckingham and Lord Kimberley, we have to observe :

1. This proposition involves an abandonment of the *principle* which two Secretaries of State (and it must be presumed, two successive administrations) declared, after much consideration, and in view of the transactions of 1857, was properly and justly applicable to this case, viz. : That the compensation should be derived from the future revenue of the territory itself, and payable only as it came into the hands of Government. This *principle* was also accepted by the Company in their communication of 13th April, 1864.

2. On the other hand, the principle of ascertaining and fixing a money value upon the territorial rights of the Company "in the British territory east of the Rocky Mountains, and north of the American and Canadian lines," and of extinguishing those rights by a payment "at once," was suggested in 1865, by a delegation from the Canadian Government of that day, and assented to by Mr. Cardwell, then Secretary of State for the Colonies, and his colleagues.

If the latter principle and mode of settlement is now to be adopted, it is obvious that the first question is, What is the nature of these "rights" and what territories do they affect ? and the second, What are the rights, separated from the duties and burdens attached to them by the Charter, fairly worth ?

We shall not attempt to answer these questions fully in the present communication, but we venture to submit for Earl Granville's consideration a few facts and inferences, which cannot, we believe, be disputed, and which are essential elements in any calculation which may be attempted on the basis of a money purchase.

1. The Charter of Charles II. (and for the present, we raise no question as to its validity) could not and did not grant to the Hudson's Bay Company any territory in America which was not then (1670) subject to the Crown of England.

2. The Charter expressly excluded all lands, &c., then "possessed by the subjects of any other Christian prince or State."

3. By the treaty of St.-Germain-en-Laye (1632), the King of England resigned to the King of France the sovereignty of Acadia, New France and Canada generally, and without limits.

4. "La Nouvelle France" was then understood to include the whole region of Hudson's Bay, as the maps and histories of the time, English and French, abundantly prove.

5. At the Treaty of Ryswick (1697) 27 years after the date of the Charter, the right of the French to "places situated in the Hudson's Bay" was distinctly admitted ; and although commissioners were appointed (but never came to an agreement) to "examine and determine the pretensions which either of the said Kings hath to the places situate in the Hudson's Bay," and with "authority for settling the limits and confines of the lands to be restored on either side ;" the places taken from the English (*i.e.* from the Hudson's Bay Company) by the French previous to the war, and "retaken by the English during this war, shall be left to the French by virtue of the foregoing (the 7th) article." In other words, the forts and factories of the Hudson's Bay Company, established in Hudson's Bay under pretence of their Charter and taken possession of by the French in time of Peace, on the ground that they were an invasion of French territory, were restored, by the Treaty of Ryswick, to the French, and not to the Company.

6. By the Treaty of Utrecht, 1714, "the Bay and Straits of Hudson, together with all lands, seas, sea coasts, rivers, and places situate in the *Bay and Straits*, and which beloug thereto," were finally ceded to Great Britain.



7. As no definite boundary was ever established between the possessions of the French in the interior and the English at Hudson's Bay, down to the Treaty of Paris, 1763, when the whole of Canada was ceded to Great Britain, the extent of the actual possession by the two nations for some period, say from the Treaty of Utrecht to the Treaty of Paris, affords the only rational and true basis for ascertaining that boundary.

8. The evidence is abundant and conclusive to prove that the French traded over and possessed the whole of the country known as the Winnipeg Basin and "Fertile Belt," from its discovery by Europeans down to the Treaty of Paris, and that the Hudson's Bay Company neither traded nor established posts to the south or west of Lake Winnipeg, until many years after the cession of Canada to England.

9. No other or subsequent grant to the Company was ever made which could possibly extend their territorial rights under their Charter. The license to trade in the Indian territories, which they obtained in 1821, was revoked in 1858, and has not been renewed.

10. The country which, in view of these facts, must be excluded from the operation of the Charter, includes all the lands fit for cultivation and settlement in that part of British America.

It will be for Earl Granville to consider whether this Company is entitled to demand any payment whatever for surrendering to the Crown that which already belongs to it. We confess our utter inability, upon any principle of law, or justice, or public policy, with which we are acquainted, to estimate the amount which ought to be paid under such circumstances. The only basis of computation we can discover, applicable to such a case, is the cost of the legal proceedings, if any be necessary, to recover possession. A person has taken possession of a part of your domain under the pretence that it is included in a deed which you gave him for some adjoining property before you purchased the domain. You want to get rid of him, but will be compelled to bring an action. He is artful, stubborn, wealthy and influential. He will be able to worry you with a tedious litigation. How many acres will you allow him to "reserve," and how much will you pay to save yourself the cost and trouble of a law suit? Compromises of this kind are not unknown in private life, and the motives and calculations which govern them may be applicable to the present case. We recommend this mode of computing the amount of the payment to be made for the surrender of the North-West territory, as distinguished from Rupert's Land, with all the more confidence because it has already been suggested by one of the ablest and most trusted of the representatives of the Company. (Vide evidence of Right Honourable E. Ellice, House of Commons Report, 1857, question 5,834.)

With respect to Rupert's Land, or the "lands and territories," "upon the coasts and confines of the seas, bays," &c., that lie "within the entrance of the straits commonly called Hudson's Straits," "not possessed by the subjects of any other Christian prince or state," a different rule, we admit, may be held to apply. Giving to the words of grant the widest construction, territorially, that could possibly be admitted by any judicial body with the facts of the case in evidence before it, or, giving to these words the construction which the Company themselves applied for a hundred years from the date of their Charter, the "rights" they propose to sell are of little commercial value. No revenue, we feel assured, will ever be derived from them. The fur trade is the only industry the country offers as a source of profit, and this, if we rightly understand Sir Stafford Northcote's suggestion, the Company wish to retain.

It has never been alleged, even by the most sanguine advocates of the new theory of the Company respecting land-sales, that any revenue can be derived from that source within the limits which we have assigned to Rupert's Land. The cost of Government there, inconsiderable though it may be, will always exceed any possible revenue. We are thus led to the same conclusion as in the case of the territory claimed, but not owned, by the Company, viz., that what they propose to sell has no pecuniary or commercial value. They are there, however, by at least a show of right. Being there, they obstruct the progress of Imperial and Colonial policy, and put in jeopardy the sovereign rights of the Crown over one-third (and as some think, even a larger portion) of the North American Continent. "What is it worth to have this obstruction *quietly* removed?" This is perhaps the true question; but the answer, we submit, belongs rather to Her Majesty's Government—which has the power,

in the event of resistance, to remove the evil by a summary process—than to those who are little more than spectators of the negotiation.

Earl Granville is aware that several attempts have been made since 1857, to arrive at a definite agreement on the subject of compensation. The suggestions and proposals on each side, together with the actual market value of the Company's stock at different periods, supply data which his Lordship may deem of importance; and we therefore respectfully submit our views as to the conclusions which may be deduced from them.

The first attempt of the Imperial Government to estimate, and express in pounds sterling, the compensation which it would be reasonable to offer to the Company, was made by the Duke of Newcastle in 1864. The greatest sum which, after "very grave consideration," his Grace felt himself able to propose for the surrender of the country west of Lake Winnipeg was £250,000. But the payment was subject to the following conditions:—

1. £150,000 was to be derived from the sale of lands by Government within the territory. The payment was to be made at the rate of 1s. per acre sold, but to be entirely dependent on the Government's receipts.

2. Payments were to cease whenever they reached £150,000; and absolutely at the end of fifty years.

3. The Company was to be paid one-fourth of the sum received by Government for export duty on gold or for mining licenses or leases for gold mining in the territory, for fifty years, or until the aggregate amounted to £100,000.

4. The payment of any part of the £250,000 was contingent on the ability of the Company to place Her Majesty's Government in possession of an "indisputable title" to the territory ceded by them as against the claims of Canada.

The last condition was objected to by the Company on the ground that they could only give such title as they had, which they contended "must be taken for better for worse." The Duke of Newcastle renewed his offer, modifying the last condition into a stipulation that, in case it should be found advisable, the territory eastward of a line passing through Lake Winnipeg and Lake of the Woods might be ceded or annexed to Canada, in which case nothing would be payable to the Company in respect of *that* territory.

The present value in cash of such an offer, subject to the conditions and contingencies specified, would be very difficult to ascertain. The revenue from export duty on gold and for licenses would probably be *nil*. The revenue from land sales, if the costs of surveys, management, and necessary roads were deducted, would be *nil* also. It is very doubtful whether, if these deductions be made, the revenue from land sales in the provinces of Canada from the cession in 1763 to the present time would show a surplus.

Sir Stafford Northcote quotes the price of land in Minnesota, and thence infers the value of lands in the Red River and Saskatchewan districts, which lie from five to ten degrees further north, and are still in the possession of the wild Indians of the plain. But we think it will be found that the lands in Minnesota, which sell for "one pound per acre," are either private lands in the neighbourhood of towns, or the property of railway companies, on or near which millions of dollars have been expended to make them saleable. They are certainly not *public* lands unimproved by public expenditure. Sir Stafford ought to have mentioned at the same time a fact, which we believe is known to every emigrant who leaves the British Isles for America, that in the Western States of the Union, and in the Provinces of Canada, wild lands are now given to settlers as "free grants," and we may add, this policy is more likely to be extended than reversed. To talk of the *value* of public lands as a source of revenue, distant from one to two thousand miles from available markets, and without roads or navigable waters by which to approach them, is to contradict all experience, or to assume that the cost of surveys and management, and of canals, roads, or other improvements for their development and settlement, will be supplied by those who do not own them, for the benefit of those who do.

But in order to arrive at some result that can be expressed in figures, we will assume that the sum ascertained by the Duke of Newcastle to be a sufficient "compensation" would, under his proposition, have been paid within 50 years, and at an average rate per annum. We thus give the Company the benefit of all the doubts in the case, and reduce the question to a simple problem in arithmetic: What is the present value of an annuity of £5,000 per annum for fifty years?



That value, we submit, is the highest amount in cash which can be claimed as an equivalent for the offer made to the Company in 1864 by his Grace the Duke of Newcastle.

The next offer of the Imperial Government which mentions a specific sum, is that made by his Grace the Duke of Buckingham and Chandos, on the 1st December last. It differs from the previous offer in several important particulars.

1. It embraces the *whole* of the territory claimed by the Company.
2. It proposes to allow the Company to retain their "posts" and certain allotments of lands in their vicinity, with a small reservation in each township as it is surveyed.
3. It proposes to allow the Company one-quarter of the receipts from land (free grants being treated as sales at 1s. per acre), and one quarter of the sum received by Government as an export duty for gold and silver.
4. It limits the amount to be received under these heads conjointly, at £1,000,000 sterling.

The other stipulations are unimportant for the purpose of ascertaining the cash equivalent of the proposition.

It is evident that the "unknown quantities" in this question are as difficult to find as in the first. We know the *total* sum to be paid, and the *proportion* of the receipts from lands and mines applicable for its payment; but we do not know the average annual sum likely to be realized from their sale. The minimum price is fixed at 1s. per acre, and it is doubtful if, under the proposed arrangement, the price would ever be found to exceed that sum. There is one term still to be ascertained—the average *number* of acres per annum likely to be sold and granted. A crude guess is all that the case admits of. If we take Upper Canada, possessing many advantages for early and rapid settlement, of which, unfortunately, the remote territories of the North-West are deprived, we find that from its erection into a separate province, down to 1868, about 22 millions of acres had been disposed of by sale and grant, or an average of about 286,000 acres per annum.

Assuming that the same rate of sale, &c., is maintained in the North-West Territories (which all the old Hudson Bay authorities who know the country would pronounce a bold assumption) we have reduced the question to a simple reference to the annuity tables as before, viz., What is the present value of an annuity of £3,575 per annum for 280 years?

We have omitted from the last term the one-fourth of the Government receipts from gold and silver, for two reasons. 1st, It has not been shown that there are gold or silver mines in the territory, that will pay for working. 2nd, All the attempts heretofore made to obtain a revenue from such sources in Canada have failed, and public opinion has forced the local governments to adopt the policy of what may be called "free mining," or cheap lands for the miners, and abolition of royalties and imposts, except to meet the cost of preserving the peace, and of surveys and necessary supervision.

There is another proposition on the Government side, which bears on the question of "compensation." It results from the agreement between the representatives of the Government of Canada, and Her Majesty's Government in 1865, and containing fewer elements of uncertainty than propositions which involve questions of Government policy, emigration, land sales, &c.; it can be reduced to a cash value with greater exactitude.

Mr. Cardwell describes the agreement as follows:—"On the fourth point, the subject of the North-Western Territory, the Canadian Ministers desired that that territory should be made over to Canada, and undertook to negotiate with the Hudson's Bay Company for the termination of their rights on condition that the indemnity, if any, should be paid by a loan to be raised by Canada under the Imperial guarantee. With the sanction of the Cabinet, we assented to this proposal—undertaking, that if the negotiations should be successful, we on the part of the Crown, being satisfied that the amount of the indemnity was reasonable, and the security sufficient, would apply to the Imperial Parliament to sanction the agreement, and to guarantee the amount."

The Canadian delegates reported on the subject with a little more detail. "We accordingly proposed to the Imperial Ministers that the whole British territory east of the Rocky Mountains, and north of the American or Canadian lines, should be made over to Canada, subject to such rights as the Hudson's Bay Company might be able to establish, and that the compensation to that Company (if any were found to be due) should be met by a loan guar-

anteed by Great Britain. The Imperial Government consented to this, and a careful investigation satisfies us that the compensation to the Hudson's Bay Company cannot, under any circumstances, be onerous. It is but two years since the present Hudson's Bay Company purchased the entire property of the old Company; they paid £1,500,000 for the entire property and assets, in which were included a large sum of cash on hand, large landed properties in British Columbia and elsewhere, not included in our arrangement, a very large claim against the United States Government, under the Oregon Treaty; and ships, goods, pelts and business premises in England and Canada, valued at £1,023,569. The value of the territorial rights of the Company, therefore, in the estimation of the Company itself, will be easily arrived at."

The principle which this agreement between the two Governments recognises as applicable to the case, appears to be—compensation in money for the ascertained rights of the Company, after deducting the value of the property retained by them. The words "if any," and "if any were found to be due," import that, in the opinion of both parties, it was possible, if not probable, that after making the deductions, no compensation would be "due."

The basis of the calculation which seems to have been made, or agreed upon, is very simple. The old Hudson Bay Company had recently sold all the rights and property of the Company, of every description, for the sum of £1,500,000. An inventory, agreed to by both sellers and purchasers, set down the assets, exclusive of "Territorial Rights," as follows:

" 1. The assets (exclusive of Nos. 2 and 3) of the Hudson's Bay Company, recently and specially valued by competent valuers,	£1,023,569
" 2. The landed territory (not valued)	
" 3. A cash balance of.....	£370,000
	<u>£1,393,569"</u>

On the face of their own statement, £1,500,000 *less* the above sum, or £106,431, was the amount which the new purchasers actually paid for the "Landed Territory." Under the agreement of 1865, this seems to be the highest sum which Mr. Cardwell and the representatives of the Canadian Government thought could in any event be demanded by the Company as indemnity or compensation for the surrender of the rights they "would be able to establish."

We have thus attempted to convert into their equivalents in cash, the two offers made to the Company since 1857 by the Imperial Government, and to ascertain the amount of the indemnity contemplated by Mr. Cardwell and the Canadian delegates in the arrangements of 1865. To arrive at any result, we have had to assume figures which according to our experience, the facts of a new country will be more likely to reduce than to increase. We have also omitted conditions either implied or expressed in the proposals of 1864 and 1868, which we believe would have imposed considerable expense upon the Company.

There is another mode of estimating the amount to be paid, on the principle of compensating for actual loss only, which remains to be considered.

The stock of the Company has for some time been quoted at an average of 13½. The capital is, nominally, £2,000,000, and the shares £20—the value of the stock, therefore, in cash, assuming that the whole of it could be sold at the market rate, is £1,350,000, or £43,569 *less* than the value, according to their own estimate, in 1863, of the Company's assets, *exclusive* of the "landed territory." The money obtained from the public for shares, beyond the £1,500,000 paid to the old shareholders, will no doubt be amply sufficient to make good any deficiency in the valuation of 1863.

From a consideration of these data, we submit that, if the validity of the Charter is not now to be questioned; if the territorial extent of the country affected by it is not to be defined; if the claim of Canada to include within her boundaries a large portion, if not the whole, of the country occupied by the French at the time of the cession in 1763, is not to be investigated, and finally determined; if the admitted incapacity and the notorious neglect of the Company to perform the duties of government (which were part



of the consideration for the *rights* conceded by the Charter), are not to be taken as sufficient on public grounds to justify cancellation, and re-entry by the Crown—then the very highest indemnity which ought to be paid, in cash, for a surrender of the territorial claims of the Company, with the reservations and other privileges offered by His Grace the Duke of Buckingham and Chandos, is the sum indicated by the foregoing computations.

We must, in conclusion, express to Earl Granville our strong conviction that no *money* offer, which either the Imperial or the Canadian Government would deem reasonable, will be accepted by the Company, and that to delay the organization of constitutional government in the North-West Territory until the Hudson's Bay Company consent to reasonable terms of surrender, is to hinder the success of Confederation in British America, and to imperil the interests and authority of the British Crown in the territories now occupied by the Company.

We therefore respectfully submit for Earl Granville's consideration, whether it is not expedient that the Address of the Canadian Parliament be at once acted upon, under the authority of the Imperial Act of 1867.

But, if his Lordship should see any sufficient legal or other objection to that course, then we ask, on behalf of the Dominion Government, for the immediate transfer to that Government of the "North-West Territory," or all that part of British North America, from Canada on the east, to British Columbia, Alaska, and the Arctic Ocean, on the west and north, not heretofore validly granted to and now held by "The Governor and Company of Adventurers of England trading into Hudson's Bay," by virtue of a Charter of King Charles the Second, issued about the year 1670.

We have the honour to be,

Sir,

Your obedient servants,

(Signed)

GEO. ET. CARTIER,  
WM. MACDOUGALL.

Sir Frederic Rogers, Bart., &c.,  
Colonial Office.

#### NEGOTIATIONS BETWEEN THE DOMINION AND ONTARIO GOVERNMENTS IN 1871 AND 1872.

[A Commissioner was appointed by each Government in July, 1871, for the settlement of the northerly and westerly Boundaries of the Province. The following letter and Orders-in-Council show the subsequent proceedings :—]

OTTAWA, 14th March, 1872.

SIR,—With reference to your despatch No. 138, of the 6th of January last, I have the honour, in compliance with the request therein contained, to transmit to you herewith a copy of the instructions to be given to the Commissioner appointed to act on behalf of the Dominion of Canada, in the survey and location of the Boundary Line between the North-West Territories and the Province of Ontario.

I have the honour to be,

Sir,

Your obedient servant,

(Signed)

JOSEPH HOWE,  
*Secretary of State for the Provinces.*

The Honourable W. P. Howland, C.B.,  
Lieutenant-Governor, Toronto, Ontario.

DRAFT of INSTRUCTIONS to be given to the Commissioner appointed to act on behalf of the Dominion of Canada, in the Survey and Location of the Boundary Line between the North-Western Territories and the Province of Ontario, in conjunction with a Commissioner to be appointed by the Government of Ontario.

1. The Boundary in question is clearly identical with the limits of the Province of Quebec, according to the 14th Geo. III., ch. 83, known as the "Quebec Act," and is described in the said Act as follows, that is to say: Having set forth the westerly position of the southern boundary of the Province as extending along the River Ohio "*westward to the banks of the Mississippi*" the description continues from thence (i. e. the junction of the two rivers) "*and northward to the southern boundary of the territory granted to the Merchant Adventurers of England trading to the Hudson's Bay.*"

Having determined the precise longitude, west of Greenwich, of the extreme point of land making the junction of the north and east banks respectively of the said river, you will proceed to ascertain and define the corresponding point of longitude or intersection of the meridian passing through the said junction with the international boundary between Canada and the United States.

Looking, however, to the tracing enclosed, marked A., intended to illustrate these intersections, it is evident that such meridian would intersect the international boundary in Lake Superior.

Presuming this to be the case, you will determine and locate the said meridian, the same being the westerly portion of the Boundary in question, at such a point on the northerly shore of the said lake as may be nearest to the said international boundary, and from thence survey a line due south to deep water, making the same upon and across any and all points or islands which may intervene, and from the point on the main shore formed as aforesaid, draw and mark a line due north to the southern boundary of the Hudson's Bay Territory before mentioned. This will complete the survey of the westerly Boundary line sought to be established.

You will then proceed to trace out, survey and mark, eastwardly, the aforementioned southern boundary of the territory granted to the Merchant Adventurers of England trading to Hudson's Bay.

This is well understood to be the height of land dividing the waters which flow into Hudson's Bay from those emptying into the valleys of the great lakes, and forming the northern boundary of Ontario; and the same is to be traced and surveyed, following its various windings till you arrive at the angle therein between the Provinces of Ontario and Quebec, as the latter is at present bounded, having accomplished which, the same will have been completed.

Your requisition for such assistance, scientific and otherwise, as may be necessary to enable you to determine the necessary longitudes with precision, and to effect the practical surveying operations in the field, and for such instruments as may be required, will receive due consideration.

Further instructions relating to the character of the Boundary marks to be erected, and conveying other information which you will probably require, will be duly sent you.

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ORDER IN COUNCIL, approved by His Excellency the Lieutenant-Governor, the 26th day of March, A.D. 1872.

The Committee of Council have had under consideration the despatch, dated 14th March instant, from the Secretary of State for the Provinces to your Excellency, together with the instructions transmitted therewith, and the Report of the President of the Council, dated 22nd March instant, in reference thereto.

The Committee advise that the Government of Canada be informed that the Province of Ontario claims that the Boundary Line is very different from the one defined by the said instructions, and cannot consent to the prosecution of the Commission for the purpose of mark-



ing on the ground the line so defined, and that the Commissioner appointed by the Government of Ontario should be instructed to abstain from taking any further action under his commission.

(Signed) J. G. SCOTT,  
*Clerk, Executive Council, Ontario.*

13th January, 1873.

REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, in Council, 9th April, 1872.

On the despatch of the Lieutenant-Governor of Ontario, dated 26th March last, on the subject of the location of the Boundary Line between the Province of Ontario and the North-West Territories, the Committee of the Privy Council beg leave to report :

That in a despatch from the Secretary of State for the Provinces to the Lieutenant-Governor of Ontario, dated 30th November last, based upon a Minute of Council of the 28th November, it was suggested to the Government of Ontario that it was of great consequence that the ascertaining and fixing, on the ground, of the Boundary Line in question, should be as far as possible expedited. That the Lieutenant-Governor in his despatch of the 6th January last, expressed his concurrence in the necessity for immediate action, and to prevent unnecessary delay, suggested that a draft of the instructions proposed to be given to the Commissioner appointed on behalf of the Dominion, to locate the line, should be transmitted for the consideration of the Government of Ontario at the earliest moment.

That with the view of meeting the desire so expressed, a draft of the proposed instructions was transmitted to the Lieutenant-Governor by despatch dated the 14th March last, and

That the Lieutenant-Governor in reply transmitted, with the despatch of the 26th March, now under consideration, an Order of his Executive Council to the following effect :

" The Committee advise that the Government of Canada be informed that the Province of Ontario claims that the Boundary line is very different from the one defined by the said instructions, and cannot consent to the prosecution of the Commission for the purpose of marking on the ground the line so defined, and that the Commissioner appointed by the Government of Ontario should be instructed to abstain from taking any further action under his commission."

The Committee of the Privy Council regret that the Government of Ontario, while expressing their difference of opinion from that of the Dominion, omitted to give their own views on the subject, and they did not state what their claim as to the location of the boundary line was. As it is of the greatest consequence to the peace and well-being of the country in the vicinity of the dividing line, that no questions as to jurisdiction or the means of prevention or punishment of crime should arise or be allowed to continue, the Committee recommend that the Government of Ontario be invited to communicate their opinion on the subject to your Excellency, together with a description of the Boundary line which they would suggest as the correct one.

Should it be found after an interchange of opinions that the two Governments cannot agree as to the location of the line, the Committee do not doubt that both Governments will feel it their duty to settle, without delay, upon some proper mode of determining, in an authoritative manner, the true position of such Boundary.

(Signed) WM. H. LEE,  
*Clerk, P.C.*

ORDER IN COUNCIL approved by His Excellency the Lieutenant-Governor, the Nineteenth day of April, A.D. 1872.

The Committee of Council have had under consideration the despatch from the Secretary of State for the Provinces, of the 10th instant, on the subject of the Boundary Line of Ontario and the copy of an approved Minute of the Privy Council of Canada enclosed. In

this Minute the Privy Council regrets "That the Government of Ontario, while expressing their difference of opinion from that of the Dominion, omitted to give their own views on the subject, and did not state what their claim as to the location of the Boundary was."

The Committee would observe that the despatch on which their Minute was founded did not contain any invitation to the Government of Ontario to express its views or state its claim. The Government of Ontario is now invited to do so, and the Committee advise that the Government of Canada should be informed that this Government proposes the boundary contained in the annexed description.

The Committee further advise that the Government of Canada should be informed that, as to the western limit, in the opinion of this Government there are grounds for maintaining the contention of former Governments of Canada that the limit of Ontario is further west than the one proposed in the description, and that while this Government is prepared, in view of all the circumstances, to agree to the western limit so proposed in case the same is accepted by the Government of Canada, this Government does not consider itself bound by the proposal in any other event.

As to the northern limit, it will be observed from the description that this Government maintains the position, which is supported by the contentions of all former Governments, and by the indisputable fact that the northern Boundary lies north of the watershed of the St. Lawrence system, the line of which watershed is the northern boundary laid down by the Government of Canada, and the Committee advise that the Government of Canada should be informed that, in view of all the circumstances, this Government will be prepared in case its position as to the northern boundary is agreed to by the Government of Canada, to consider any proposal which may be made by that Government for the establishment of a conventional limit to the north of that watershed.

Certified.

(Signed)

J. G. SCOTT,  
*Clerk, Executive Council, Ontario.*

January 13th, 1872.

*(Proposed Description referred to in the foregoing Order in Council.)*

The Boundary Line of Ontario is the international boundary from the mouth of the Pigeon River on Lake Superior to a point west of the Lake of the Woods, where the international boundary line would be intersected by a line drawn north from the source of the Mississippi River; thence the Boundary Line of Ontario runs north to the point of intersection of the southern boundaries of the Hudson's Bay Territories; thence the Boundary Line of Ontario is the southern boundary of those Territories to the point where that boundary would be intersected by a line drawn north from the head of Lake Temiscaming.

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DEPARTMENT OF JUSTICE,  
OTTAWA, May 1st, 1872.

With reference to a despatch of the Lieutenant-Governor of Ontario of the 19th April, transmitting an Order in Council of that Province of the same date, on the subject of the Northern and Western Boundaries of the Province of Ontario, and in which the Government of that Province transmits a description of what it holds those boundaries to be.

The undersigned has the honour to report that a considerable difference exists between the Government of Canada and that of Ontario, in respect to the said Northern and Western Boundaries of Ontario, and until such boundaries are properly ascertained and defined, no criminal jurisdiction can be effectively established or exercised in the disputed territory. Having reference to the prospect of a large influx of people into the North-West Territories, it is very material that crime should not go unpunished or unprevented, and in this view the undersigned has the honour to suggest that the Government of Ontario be invited to concur in a statement of the case for immediate reference to the Judicial Committee of the Privy



Council of England, with the view to the settlement by a judgment or decision of that tribunal of the Western and Northern boundaries of Ontario.

This is the more necessary, as no conventional arrangement between the two Governments as to boundary can confer criminal jurisprudence on the Courts of Ontario, unless the place where any crime may be committed is by law within the Province.

The undersigned has the honour also to call attention to the fact that the mineral wealth of the north-west country is likely to attract a large immigration into those parts, and with a view to its development, as well as to prevent the confusion and strife that is certain to arise and continue among the miners and other settlers so long as the uncertainty as to boundary exists, the undersigned begs leave to recommend that the Government of Ontario be urged to arrange with that of the Dominion for some joint course of action as to the granting of land and of mining licenses, reservations of royalties, &c., and for this purpose he would suggest that the Government of Ontario be moved to appoint a Commissioner to meet the Honourable J. C. Aikens and arrange some joint system; and that any such arrangement, when ratified by the two Governments, shall be held to bind both, and shall be subject to the decision of the Judicial Committee of the Privy Council upon the question of boundary; and that after such decision, titles to lands or mining rights shall be confirmed by the Government, whether of Canada or of Ontario, as shall, under the decision of the Judicial Committee, be the proper party to legalize the same.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

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REPORT of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General on the 16th May, 1872.

The Committee of Council have had under consideration the annexed Memorandum, dated May 1st, 1872, from the Honourable the Minister of Justice, having reference to the settlement of the question of the Northern and Western Boundaries of the Province of Ontario, and they respectfully report their concurrence in the recommendations submitted in the said Memorandum, and advise that the same be approved and adopted.

(Signed) WM. H. LEE,  
*Clerk P. C.*

To the Honourable

The Secretary of State, &c., &c., for the Provinces.

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ORDER IN COUNCIL, approved by His Excellency the Lieutenant-Governor the thirty-first day of May, A.D. 1872.

The Committee of Council have had under consideration the despatch from the Secretary of State for the Provinces of the 16th May, with the Minutes of Council and Memorandum of the Minister of Justice enclosed in that despatch, all relating to the settlement of the question of the Northern and Western Boundaries of the Province of Ontario.

The Committee of Council regrets that the Government of Canada does not propose, in any respect, to modify its views with reference to these boundaries, opposed as those views are to the general tenour of the expressions and conduct of the Governments of the late Province of Canada and of the Dominion in the past.

The Committee of Council also regrets that the Government of Canada is not prepared to negotiate, for the purpose of arriving at a conventional arrangement as regards the boundaries. The Committee infers that the Government of Canada disapproves of that course, in consequence of the difficulty stated in the following extract from the Memorandum of the Minister of Justice:—"This is the more necessary, as no conventional arrangement between the two Governments as to boundary can confer criminal jurisdiction on the Courts of Ontario, unless the place where any crime may be committed is by law within the Province."

The Committee desires to call attention to the 3rd clause of the Act of the Imperial Parliament, passed 29th June, 1871, chap. 28, which is in these words:—"The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby."

It appears to the Committee that under the operation of this clause, it is quite possible to arrive at a conventional settlement of the question by the joint action of the Executive and Legislative authorities of the Dominion and of the Province.

With reference to the emergency arising out of the expected immigration during this spring and summer, it appears to the Committee that a short Act of the Parliament of Canada, providing that the boundaries of the Province of Ontario should, for the purposes of criminal jurisdiction and so far as the Parliament of Canada can provide, be decreed, pending the settlement of the question, to extend as far as the limits which are specified in the memorandum transmitted to the Government of Canada by this Government, would, though open to some objection, afford the best practicable solution of that difficulty.

With reference to the proposed submission to the Judicial Committee of the Privy Council, this Committee begs to observe that the solution of the boundary question depends upon numerous facts, the evidence as to many of which is procurable only in America, and the collection of which would involve the expenditure of much time; and upon the whole the Committee is of opinion that the more satisfactory way of settling the question, should the Government of Canada still decline to negotiate for a conventional boundary, would be by a reference to a Commission sitting on this side of the Atlantic, and the Committee recommends that without for the present dealing definitely with the proposal of the Government of Canada for a reference to the Judicial Committee, this counter-suggestion should be made to that Government.

The Committee of Council entertains a strong conviction that it is the duty of the Government of Ontario to retain in the meantime the control of the lands within the boundaries claimed by it, but as it is anxious that the policy of the Government with reference to the disposition of these lands should, so far as practicable, conform to the views of the Government of Canada, the Committee agrees that an effort should be made to avoid the possible difficulties arising from the claims put forward by that Government, and with this view the Committee recommends that the Honourable R. W. Scott should be requested to confer with the Honourable J. C. Aikens, as proposed by the despatch of the 16th May.

(Signed) J. G. SCOTT,  
*Clerk, Executive Council, Ontario.*

14th January, 1873.

DEPARTMENT OF PUBLIC WORKS,  
OTTAWA, 24th April, 1872.

SIR,—I am directed to transmit herewith an account against the Province of Ontario, for maintenance of police force at Thunder Bay, and cash advances, &c., for Court House at Prince Arthur's Landing, amounting to \$4,035 74, and to request that application may be made to the Government of that Province for an early settlement of the same.

I have the honour to be, Sir,  
Your most obedient servant,

F. BRAUN,  
*Secretary.*

Honourable the Secretary of State for the Provinces,  
Ottawa.



GOVERNMENT HOUSE,  
TORONTO, 25th June, 1872.

SIR,—Adverting to your despatch under date 26th April last, enclosing a copy of a letter from the Secretary of the Department of Public Works of Canada, together with certain accounts therein referred to, amounting to the sum of \$4,035 74, for the maintenance of a police force at Thunder Bay, and for cash advances for the Court House at Prince Arthur's Landing, I have the honour to transmit herewith cheques of the Treasury Department, Ontario, Nos. 782 and 783, drawn in favour of the Dominion Government for the sums of \$215 02 and \$793 31, respectively, being in discharge of items in connection with the Court House at Prince Arthur's Landing.

With reference to the other items in connection with the maintenance of a police force at Thunder Bay, I have at the same time to intimate that my Government has been unable to ascertain the authority from the Province of Ontario upon which the Province is now asked to pay these amounts, and I have, therefore, to request you to be good enough to state for their information the authority upon which the expenditure in question has been made.

While my Government fully concurs in the view of the Government of the Dominion of Canada, that Thunder Bay and that part of the Red River Road, the construction of which has given rise to the claim now made, is within the limits of the Province of Ontario, I cannot but observe that the Government of the Dominion of Canada is at this moment preferring a claim to that territory on the ground of its being beyond the limits of this Province.

I have the honour to be, Sir,  
Your most obedient servant,  
W. P. HOWLAND.

(Signed)

To the Honourable  
The Secretary of State for the Provinces, Ottawa.

SECRETARY OF STATE FOR THE PROVINCES,  
OTTAWA, July 2nd, 1872.

SIR,—I have the honour to acknowledge the receipt of your despatch of the 25th ultimo, in reply to one from the Secretary of State for the Provinces, under date the 26th April last, enclosing a copy of a letter from the Secretary of the Department of Public Works of Canada, together with certain accounts therein referred to, amounting to \$4,035 74, for the maintenance of a police force at Thunder Bay, and for cash advances for the Court House at Prince Arthur's Landing.

I have also to acknowledge the receipt of two cheques (enclosed in your despatch) on the Treasury Department, Ontario, in favour of the Dominion Government, for the sums of \$215 02 and \$793 31, respectively, being in discharge of items in connection with the Court House at Prince Arthur's Landing. A copy of your despatch has been communicated to the Minister of Public Works, and his attention has been called to the request made by you on behalf of your Government, to be informed of the authority upon which the Province of Ontario is called upon to pay the expenses specified in the accounts in connection with the maintenance of the police force at Thunder Bay.

I have the honour to be, Sir,  
Your obedient servant,

(Signed) E. A. MEREDITH,  
*Under Secretary of State.*

The Honourable  
Wm. P. Howland, C.B.,  
Lieutenant-Governor, Toronto.

REMARKS UPON THAT PART OF THE MAPS OF NORTH AMERICA SHOWING THE COUNTRY COMPRISED BETWEEN THE 28TH AND 72ND DEGREES OF LATITUDE, BY M. BELLIN, 1755.\*

(Extracts.)

Albany River, when the French settled upon it, was called *Quitcheide Chouen* by the Indians; but we gave the name of *Ste. Anne* to the fort and river. That name long existed, and it is to be found in old maps. The river flows out of a lake of the same name, on the shores of which we had a post called *St. Germain*. The English built a factory there, and called it *Henley*, but it amounted to very little.—(p. 12.)

Moose River, situate at the head of *Hudson's Bay*, is not the only stream flowing into the bay at the entrance to which *Fort Moose* is built. On the western shore of that bay, *River Perray* is found, flowing from the west, and connecting with *Lake Alimipegon* about one hundred leagues from *Fort Moose*. The river derives its name from its discoverer—a Canadian—who reached *Hudson's Bay* by that route.—(p. 12.)

A large number of rivers, some of considerable size, flow into *Lake Superior*. About half-way up the north shore are situated *St. Ignace Islands*, opposite the entrance of a river through which *Lake Alimipegon*, 25 to 30 leagues from *Lake Superior*, is reached. Although these parts have long been occupied by our traders and missionaries, my knowledge of the subject lacks the requisite precision. I am ignorant of the size or configuration of *Lake Alimipegon* or its tributary rivers, or even of the greater part of the rivers flowing into *Lake Superior*.—(p. 70.)

On the west coast of *Lake Alimipegon*, there is a river through which the head of *Hudson's Bay* may be reached. A Frenchman, from Canada, named *Perray*, was the first discoverer of that route, and gave his name to the river. On leaving the lake, the river is ascended for about 40 leagues, several small lakes crossed, and a few portages made; then comes a more considerable lake whence the water flows east, into the head of the Bay, at the entrance of which the English *Fort Moose* is built.—(p. 71.)

We have long been aware of the existence of an extensive chain of lakes and river connections (55) to the west and north-west of *Lake Superior*, forming a convenient highway to the far West; it was even supposed the ocean might be reached in that direction; hence the later discoveries of the French in those parts have only confirmed our previous conjectures and almost converted them into certainty.—(p. 72.)

In a MS. Map deposited in the Map Department of the Marine Bureau, and drawn in 1687 by *Sieur Franquelin*, geographical engineer, employed in New France, are found to the west of *Lake Superior*, certain rivers communicating with two large and contiguous lakes, respectively named *Assiniboile* and *Christinaux*; from the latter a river (*Bourbon*) runs to *Fort Nelson*, on *Hudson's Bay*. Those two lakes are now called *Lakes Quinipique* and *Bourbon*, and we have factories on both. Another map, fully as interesting as the former, is that drawn up from information received from the *Indian Ochagat*, the original copy being deposited in the office, which indicates several lakes and river connections tending far towards the west. Although the distances are derived from approximations liable to error, a certain vein of truth is observed and confirmed by more recent investigations in those parts, such as furnished by the memoirs of *MM. de la Verandrie*, father and son, sent to establish various forts for the protection of the newly discovered territory; and the *Journal of M. Le Gardeur de St. Pierre*, an officer of the troops in Canada, who visited the forts in 1750, with instructions to extend his discoveries to the utmost practicable extent, make treaties, and establish trading relations with the most distant Indian nations.

Although I have said the sources of the *Mississippi* were unknown, the French ascended that river to a great distance, and formed several establishments; one, especially, named *Fort of Orleans*, over 80 leagues from the sea, in the midst of *Missouri*, *Osage*, *Kansas*, and other Indian tribes.—(p. 122.)

The *Illinois* river is only a few leagues distant from the *Missouri*, but on the other side.

\* Jacques Nicolas Bellin, a French Geographer and Engineer, was born in Paris in 1703, and died in 1772. He executed the maps for the *Abbé Prévost's "Histoire Générale des Voyages,"* and published a collection of charts entitled "*French Hydrography*," in 1756. These extracts are translated from his "*Remarques sur la Carte de l'Amerique, Septentrionale comprise entre le 28e et le 72e degré de latitude.*"



We have already seen the forts built in 1679, on that river by M. de la Salle ; and in addition, we have since built a fort at Peoria, 20 leagues from its mouth.—(p. 123.)

On the east side of the Mississippi is found the river Ouisconsin, at the mouth of which Sieur Perrot, a Canadian, built Fort St. Nicolas. Lead mines are found on both sides of the main stream below that point. From river Ouisconsin to Lake Pepin, the distance is about 30 leagues ; that lake is merely an expansion of the river, about a league in width by 5 or 6 in length. A small fort was built at its entrance by Sieur Perrot, and another a little higher, on account of the adjacent lead mines. A few leagues further are several islands, on the largest of which Fort Le Sueur was built in 1695. River St. Croix flows on from the east a little above that place ; its sources not being far distant from Lake Superior. A fort, also named St. Croix, has been built on that river, about 40 leagues from its mouth ; and not more than 25 leagues from Lake Superior, which was easily reached from thence. The distance from River St. Croix to River St. Pierre is estimated at 5 of 6 leagues. River St. Pierre runs in from the west, and rises in Lake des Tintons ; it flows over 50 leagues to the east, then turns and runs at least 30 leagues north-east to the Mississippi. At the elbow it receives rivers Verte (Green), and St. Rémi. Old Fort L'Huillier or Fort Vert—thus called on account of a deposit of green earth in the neighbourhood—was built by us at the elbow. The latitude of Fort Vert is 44° 20' ; the mouth of River St. Pierre 44° 55'. The latitudes are from observations taken in 1700 by Sieur Le Sueur.—(p. 124.)

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EXTRACT FROM THE LETTER WRITTEN BY SIEUR DULHUT TO MONS. DE LA BARRE,  
FROM BELOW THE PORTAGE OF TERAGON, ON THE 10TH SEPTEMBER, 1684.\*

As I was leaving the Lake of Almenigon I made, in June, all the presents necessary to prevent the savages from further carrying their beaver to the English. I have met the Sieur de la Croix with his two comrades, who gave me your despatches, wherein you tell me to omit nothing in forwarding your letters to the Sieur Chouart, at Nelson River. To carry out your instructions there was but Mons. Père, who would have to go himself, the savages having all, at that time, withdrawn into the interior to secure their blueberries. The said Sieur Père will have left in August. In the month of August last, he will have remitted your letters to the said Sieur Chouart.

It remains for me, Sir, to assure you that all the savages of the north have great confidence in me, and that enables me to promise you that, before the lapse of two years, not a single savage will visit the English at Hudson's Bay. This they have all promised me, and have bound themselves thereto by the presents which I have given, or caused to be given to them. The Klistinos, the Assenepolacs, the people from the Sapinière, the Openens, Dachiling, the Outoubouhys and Tabitibis, which comprise all the nations which are to the west of the Northern Sea, have promised to be, next spring, at the fort which I have constructed near the River à la Maune, at the bottom of Lake Alemepigon ; and next summer, I will construct one in the country of the Klistinos, which will be an effectual barrier. Finally, Sir, I wish to lose my life if I do not absolutely prevent the savages from visiting the English.

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GAULTIER DE COMPORTE, PREVOST OF CANADA, 1684.†

Has, heretofore, presented a memoir, by which he requests the grant unto himself and his associates, of the ownership of the River de Bourbon, de Nelson in Hudson's Bay, of which possession had been taken in the name of the King, for as long a time as it should please, with permission to establish three posts in the river which descends into the said bay, at seventy leagues from the place where the farmers are settled.

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\* Archives de Paris, 2nd Series, vol. IV., page 263.

† Archives de Paris, 2nd Series, vol. IV. p. 227.

QUEBEC, the 15th October, 1697.

MY LORD,—

We have caused the King's Ordinance to be published, and have begun to carry it into execution with the utmost severity, and orders are given, generally, to recall not only all the voyageurs, but also all the soldiers who are at the posts with the commandants, without excepting the Sieur de Tonty, invalided captain, to whom I had given orders, in case the Sieur de la Mothe Cadillac should descend with the convoy of Frenchmen and savages that we were expecting, to re-ascend with these last and five Frenchmen, and with the utmost promptitude to go to Missilimakinac, and there to take command in the absence of the said Sieur de la Mothe.

FRONTENAC.

QUEBEC, the 14th October, 1719.\*

The Sieur de Vaudreuil has not received, in the present year, any letter from the Sieur de la Noüe ; he has only learnt, by way of Chagoamion, which is to the south of the bottom of Lake Superior, and where, since last year, the Sieur de St. Pierre commands, that the Sieur Pachot had passed through there on his way to the country of the Scioux, where he had been sent by the Sieur de la Noüe, with respect to the peace that he was trying to bring about between that nation and that of the Cristinaux ; but that the Sieur Pachot not having returned to Chagoamion at the date when the last canoes left, no information as to the result of his voyage had been there obtained. The silence of the Sieur de la Noüe creates the belief that he has preferred to await the return of the Sieur Pachot, before giving account to the Sieur de Vaudreuil of what he has done in execution of the orders which he had given him, and that he was not able to do so at the date of the Sieur Pachot's arrival at Gamanistigoya, because the season was then too far advanced.

The Sieur de Vaudreuil believes that the absence of the Sieur Pachot will have prevented the Sieur de la Noüe from sending this year to Takaminionen, but that officer will have found means to attract to his post the savages who were in the habit of trading at Hudson's Bay.

VAUDREUIL.

FROM M. DE BEAUHARNOIS.†

27TH SEPTEMBER, 1727.

MY LORD,—

Whilst at Montreal, I have not missed writing to the Commandants of Detroit, the Miamis and Ouatanonons, who are closer to the River Ouabache than that of Detroit, to obtain information as to the establishments which the English intend founding on that river. On my departure from Montreal I left orders to send a man there for that purpose. I shall have the honour of reporting to you as to what I shall learn from him on his return. I have been informed that last summer, the English had sent to trade in the environs of the said river ; that they had erected two cabins which served them for store-houses, and that they had demolished them when about to return to Orange. On this information, I have sent orders not to tolerate them there in the future. \* \*

BEAUHARNOIS.

\* Archives de Paris, 3rd Series, vol. VII. page 646.

† Archives de Paris, 3rd Series, Vol. X. pages 172-4.



EXTRACT FROM A STATEMENT OF THE CONGÉS (LICENSES) SIGNED BY VAUDREUIL AND BEGON, QUEBEC, 9TH NOV., 1718.

*Recapitulation of the Licenses forwarded in 1717.*

	LICENSES WHICH HAVE BEEN MADE USE OF		UNUSED LICENSES.	TOTAL LICENSES.
	In 1717.	In 1718.		
For Missilimakina .....	2	4	1	7
For La Baie.....	0	9	0	9
For the Ouyatanons ....	0	3	1	4
For River St. Joseph ...	0	6	0	6
For the Illinois.....	0	3	1	4
	<hr/> 2	<hr/> 25	<hr/> 3	<hr/> 30

ENGLISH CORRESPONDENCE, ETC., RELATING TO AFFAIRS IN CANADA,  
1783 TO 1795.

(From Upper Canada MSS, 1783-1795.)

EXTRACT FROM GENERAL HALDIMAND'S WINTER DISPATCH, 1782.

\* \* \* \* \*

Feb. 14th.—If the Rebels are not restrained from taking possession of that valuable tract of country which by Treaty is the undoubted property of the Indians, they will, in a very few years, establish themselves so firmly, that upon a future occasion they will find but little difficulty in dispersing the Indians and making themselves masters of Upper Canada.—(p. 95).

BRIGADIER-GENERAL McLEAN'S ACCOUNT OF A CONFERENCE WITH THE INDIANS.

NIAGARA, 18TH MAY, 1783.

\* \* \* \* \*

They told me they could not believe our King could pretend to cede to America what was not his own to give; or that the Americans would accept what he had no right to grant; nor upon a representation of the Six Nations in the year 1768, when the King appointed Sir William Johnson as Commissioner to settle the Boundaries between the Indians and the Colonies, that a line had been drawn from the head of Canada Creek near Fort Stanwix, to the Ohio, then the boundary thus settled, would be agreeable to the Indians and the Colonists; and which had never been doubtful or disputed since.—(p. 97.)

GENERAL HALDIMAND'S REFUSAL TO DELIVER UP THE UPPER POSTS TO GENERAL WASHINGTON, 1783.

In 1784, the Ministry at home through Henry Sidney, according with Haldimand's refusal, [wrote]:

"With regard to your refusal to Baron Stewben, you were justified doing it."

The 7th Article of Definitive Treaty stipulates they should be evacuated with all convenient speed, but no time is fixed, and as it is not confined to the 1st Article, until we can secure the Traders in the interior of the country, and withdraw their property the Indians occupy in Canada.—(p. 99.)

12th May, 1784.

Evacuation of Forts delayed as the means of obliging Congress to prolong the time of one year granted by the Treaty, for the Loyalists to obtain, if possible, the recovery of their estates. But from the want of government and good order in the different states it is impossible for Loyalists to go among them.—(p. 107.)

W. Grant, F. Dunn, had license to trade at the Upper Posts for fourteen years—1781—(p. 109.)

*From Henry Hope, Governor (pro tem), to Evan Nepean Esq., Under Secretary of State, Whitehall.*

QUEBEC, Sept. 1st, 1785.

(Upper Canada MSS., 1783-1795, pp. 7-11.)

\* \* \* \* \*

The death of poor Lieutenant-Governor Hay is another event that occasions my deviating from my proposed silence; for, Lieutenant-Governor Hamilton having done me the honour to ask my opinion on the subject of nominating a successor to him in the Civil Government of Detroit, and communicating his own ideas with respect to the person he thought for that situation, it becomes, in some degree, necessary that I should thus explain the predicament I am still in, when it might so naturally be imagined at home that I was actually in the command, which you have seen is not the case: and since the Lieutenant-Governor has further done me the honour to concur in my opinion so far (which was, to take no resolution in the matter, at least till the arrival of Sir John Johnson), that I should also explain the grounds upon which I gave him that opinion.

Exclusive, then, of the considerations that make it eligible, at all events, to defer any partial arrangements for which the necessity was not pressing, till it should be seen if any, or what, general one for the Province at large, and particularly for the upper country, was made at home, and the orders that were accordingly given; there were some others that induced me more immediately to urge that opinion, such as:—

First.—The objections that exist to there being any such appointment at all as Lieutenant-Governor to any of the upper parts, it having been hitherto (constituted as it is), rather a source of dissention than of any extraordinary benefit, that might not be equally expected from its being entirely military, and consequently vested in the officer sent by the General with the command of the troops in that garrison.

Secondly.—The absolute necessity, in my opinion, if there must be a Lieutenant-Governor, that he should be a person of a military education, experience, and character, whom you put into such a situation at such a post. Thereby his commission (as it runs at present), gives him the command in his own Government, of every officer under the rank of Brigadier-General, whom the service should require to be stationed at Detroit (though General Haldimand thought it only for the absolute advantage and security of the upper country to give the same powers to the field officer charged with the immediate defence and care of the whole upper parts, as to a Brigadier-General when there was one there) and

Lastly.—Finding that Governor Hamilton's choice (however plausible in some points of view) was inclined to fall upon a very improper person, according to my conception, in many other most essential ones, viz., upon a Mr. McGee, the Indian Agent of that port, employed under Sir John Johnson; who, though a man of much merit by all accounts, for his loyalty, immediate knowledge of the Indians and their language, as a brave and active partizan in their excursions, yet at the same time who is not of that consideration, (nor ever had any rank in the army at all,) whilst the troops who actually compose the



garrison at Detroit are commanded by an officer of long standing and reputation, Major Ancram, of the 34th Regiment, who has likewise served in the Indian country when that regiment garrisoned the Mississippi, and consequently cannot be deficient in the manner of acting with those people; to whom, or to any other officer of similar services and pretensions, I leave you to conceive whether it must not be most mortifying to come under the immediate orders of a person taken from Mr. McGee's present capacity, to be made a Lieutenant-Governor, even should such an appointment, against which there are so many other objections, be thought at present necessary.

Besides, as Mr. McGee is now the only Indian Agent at that port, which employment he could not continue to exercise when Lieut.-Governor, by the well judged regulations made by General Haldimand two years ago, in order to strike at the root of the upper country abuses; so, till Sir John Johnson's arrival and being consulted with for a proper person in that event, to supply Mr. McKee's place as Agent, between whom and the Lieut.-Governor of Detroit, there is the source of discord laid by these necessary regulations, unless both are honest, liberal men, with no other views but to promote the service. It was another reason why I could not but think that such a nomination would only create confusion, that upon the whole, therefore, I hope, that since Lieut.-Governor Hamilton has so far acquiesced in my opinion as to postpone his intentions till we have accounts by Sir John from England, that he will come into it altogether under present circumstances, and be satisfied that Detroit shall remain under the total direction of Major Ancram, the actual commanding officer, until the pleasure of the government shall be known from home on the subject.—(pp. 7-11.)

*From Lord Grenville to Lord Dorchester.*

(Upper Canada MSS., 1783-1795.)

WHITEHALL, April 5, 1787.

\* \* \* \*

The affairs of the Indians, from Colonel Brant's letter to Col. Butler, appear to be in a very critical situation, and such as will certainly reduce them to the necessity of taking a decided part one way or the other in a very short time. It is natural for those people to look up to us for those supplies, which they have been accustomed to receive, and that they will think themselves neglected and forsaken, whenever such supplies are discontinued, and perhaps may be induced from disappointment to give much perplexity, though they may refrain from committing acts of hostility. Your Lordship has judged very wisely in executing every means to confine the war between them and the Americans to as narrow a scale as possible, but if it should extend itself to the northward, which will most likely be the case, and the Americans should carry their threats into execution of attempting to gain the forcible possession of the posts in the upper country, we cannot but look upon the assistance to be derived from the Indians as extremely desirable, and perhaps the most effectual impediment to such an undertaking. Were we to be governed only by the expectation of further advantage from the friendly disposition of the people, it might, even in such case, be prudent to attend to their reasonable wants; but, considering their former services, and the sacrifices many of them have made, there cannot remain a doubt of the conduct we ought to observe towards them.—(pp. 13, 14.)

\* \* \* \*

Whilst the post of Michillimackinac remains in the possession of His Majesty's troops, and Mr. Sinclair continues in the exercise of duty, it is His Majesty's intention that he shall receive his salary; but if it should hereafter happen that His Majesty should withdraw his forces from that post, and Mr. Sinclair's services are unnecessary, it will certainly be proper that his office should be abolished, and in such case His Majesty will have his pretensions to further favour, under his Royal consideration.—(p. 17.)

*From Col. Simcoe to the Lords of Trade and Plantations, 1792.*

(Upper Canada MSS., 1783-1795, pp. 130-184.)

\* \* \* \* \*

The fur-trade has hitherto been the staple of Canada, and the protection of it, until the established Government of Upper Canada, seems to have been the primary object of all the military arrangements and consequent settlements in the Upper Province.

The actual state and general importance of this trade must be perfectly known to their lordships, by the very advantageous circumstance in all respects of the post of Quebec, being the sole place from whence its produce can be exported to Great Britain. My observation on this head will, therefore, be confined to what may tend to the present protection or future increase of some of its branches. The trade to the north-west, which is carried on by a powerful and enterprising company, is at the most valuable branch of this commerce. Although the route of this traffic be through the Province of Upper Canada, it is so far without the inhabited part of it that I cannot offer any report on the general state of this branch of the trade but what your lordships can better collect from that of Lower Canada.

The trade carried on from Michillimackinac, which is at present the general place of deposit upon Lake Huron, to those rivers which flow into the Mississippi, appears of the utmost importance, as offering the greatest probability of future advantages.

I beg leave to submit to your lordships that, under the singular regulations which now subsist between Great Britain, Spain, and the United States, it might be of great public advantage if, without exciting the jealousy of Spain, a British factory could be established on the western banks of Mississippi, perhaps opposite to the mouth of the Ousconsing, in some spot of land well adapted to the following purposes, General protection, the building of houses, store-houses, and shipping. The factory might be established on nearly the same plan offered to consideration for the Miami.

The lands of the Indians might be purchased by the Crown with all due solemnity, and an annual quantity of goods to the amount possibly of £500 might be punctually delivered at Michillimackinac by the King's superintendent to the agent of the factory.

The factors should have no monopoly of the trade; their advantages should result from the occupation of such parts of the territory to be purchased, as might not at present, or at any future period, be wanted for the purpose of the Crown, and from the influence which they must naturally acquire as the distributors of the annual presents,—which should be given to the savages for the free passage of the British traders by the Fox and Ousiaing Rivers. The presents may be deducted from the general allotment made to the Indians, and need not be additional to the annual quantity; means may be easily devised to secure the annual delivery of these presents by the factors to the Indians.

The advantages would be many; considerable trade might be opened with the Spanish as well as with the Indians; such presents as are suitable to the Indian trade which the Spanish Government annually permit to be sent from Great Britain to New Orleans, would probably, by this channel of communication, operate to a wider extent, and become of greater benefit to the British nations. It is generally asserted, though perhaps without solid foundation, that the subjects of the United States on the Ohio and on the other rivers which flow into the Mississippi, will find it advantageous to build ships, and loading them with the produce of these countries, send them down the Mississippi, and sell both the ships and cargo at a foreign market. The establishment provided would effect a similar advantage and with fewer difficulties, for if, as concurrent circumstances seem to be necessary, the Spanish Government should wish for an open or understood guarantee of her American Dominions by Great Britain, it is obvious she would rather encourage than oppose an establishment on the Mississippi, whose object should by no means whatsoever be the extension of territory or of force, but simply of commerce. She would also particularly encourage that commerce if, as is probable, it would alienate the inhabitants of Kentucky and Cumberland Rivers from the United States, and render them totally independent of the Atlantic for their manufactures. This purpose would be effected by the British factory being able to furnish such manufactures in exchange for the cotton, tobacco, and other



articles of commerce of those increasing countries, and by such means divert them from their attention to the forcing of the passage of the Mississippi, in opposition to the Spanish interests, but which their present dependency on the United States imposes upon them. The intercourse which this factory would have with Kentucky, &c., might probably contribute to turn the course of trade in taking articles from the circuitous channel the European commodities must take to pass by the Gulph of Florida into the Mississippi, to the communication of those rivers which intersect with Lake Michigan, the Illinois, or Wisconsin, it being by no means incredible that this will eventually be found the cheapest route to the London market, to the inevitable benefit of Great Britain and her Colonies. The Atlantic Governments of the United States seem totally to have forgotten that their colonies (such may be considered all settlements since the peace of 1783, beyond the Alleghany), in the room of continuing the mediums by which they are to possess themselves of the fur trade, and other imaginary sources of wealth, will most undoubtedly make every due advantage of their own situation, and in the business of commerce at least, not sacrifice their interests to those of the Great Confederacy. If the Atlantic cannot subsist, as seems to be admitted, without credit, the principle is applicable in a greater degree to their colonists. If it be interest of the British merchant to give that credit, he may do it as safely upon the returns of the Cumberland River by the way of the Mississippi and the Ousconsing, as risk it by those of James River in Virginia, or the Delaware. It is true the British merchant is in the habit of giving such to one set of planters but not to the other.

The proposed factory appears to be an advanced station from whence a commerce, its advantages and disadvantages, may be contemplated, duly compared, and properly balanced. To the observations on this important subject, which I respectfully submit to your Lordship's consideration, I beg to make the following deduction,—that as Kentucky establishes her credit or her capital, she will, in setting up for herself, not only make use of all the commercial advantages she can obtain from the United States, but she will extend her views to the fur trade on the western side of the Mississippi, unless some such permanent factory, on a greater or less plan, shall bar the avenues to the ports of the river, by pre-occupying the good-will of the nations, and by underselling all rivals, or possibly by diverting the attention and jealousy of those who may be disposed to become rivals, by displaying the advantages that a more general and less precarious traffic shall offer between the colonists on the eastern side of the Mississippi and the British Empire. It may be also of serious consideration that, if the credit and capital of the British merchants invigorate the merchants of Philadelphia, Baltimore, &c., it is evident that the merchants of Kentucky, deriving their means of traffic from the credit which those of Philadelphia, &c. give to them, have no intermediate intercourse with the original fountain of supply, and are totally uninfluenced by any connections with them from whom they draw their primary support. The basis of this traffic arises from the product of the original loan on credit of the British merchants. It seems therefore in a national view that this intermediate agent, the Atlantic American merchant, should, as far as possible, not be the medium through which British credit supports the inhabitant of Kentucky in his mercantile or agricultural pursuits, but that such a medium should be sought for in a British subject, the inhabitant of Upper Canada. By these means the inhabitants of Kentucky, having a nearer interest and more intimate transaction with Great Britain, through her subjects, would naturally be disposed to support a mutual alliance and friendship with that nation, beneficial to both countries, so opposite to the views of the popular party, who have given their present supposed leaders. It is generally understood that above half of the inhabitants of Kentucky and the western waters are already inclined to a connection with Great Britain.

In the course of these observations, the trade of Detroit next comes under consideration. The war that has so long continued on the frontier of this district, has materially affected its commerce with the Indians; in particular, those on the Wabash some time since retired below a post that the United States held at Vincennes, and of course the produce of their hunts centered among those people. It is understood that these nations have now returned to their former place of residence, and that the commerce will revert to its former channel, unless the armies of the United States take post on the Miami river, the channel by which the most considerable part of the peltries are conveyed to Detroit.

It is said that, in consequence of the Indian warriors, who are the best hunters, be-

ing so often called off to defend their country, that the increase of deer, &c., has been prodigious. Some boats are sent from Detroit to the St. Joseph's on Lake Michigan, as well as to Sandusky, Cayahaga, but their returns are of no great value. This settlement supplies the north-west trade annually with eighty thousand barrels of flour, and the quantity is increasing.

The consequence of Detroit depending on the trade it has hitherto drawn to itself by being as it were the factory in this part of the country, must necessarily be gradually opening as their settlements are forming by the British or United States in its vicinity in the Niagara district, which may be included from Long Point on Lake Erie to York on Lake Ontario. The peltries are considerable, but in general they are smuggled into the United States, where the high price they bear, added to the facility that a woody and unsettled country gives for contraband traffic, are inducements which there is reason to believe few or none of the traders or factors resist.—(pp. 130-137.)

The inhabitants of Lower Canada, are almost entirely settled on the banks of the St. Lawrence, and at no great distance from its waters in the Upper Colonies. Factories in the Upper Country were formed on the same system when Upper Canada was erected into a Province. It was apprehended by some merchants that its settlements must be continued in the same manner, and no doubt they would have been so, were such persons to limit the views of mankind by what they fancy to be their own immediate interest.—(p. 142.)

The regulation of the Indian Traders when it should be seasonable, so far as to restrain those distant people by the dread of some legitimate authority, will be a work of difficulty, but of the most absolute necessity. The outrages and misconduct of many persons in that country, loudly call for intervention; a closer knowledge and communication with those countries within the jurisdiction of Upper Canada, but without its habitable parts, will be acquired by the alteration I have proposed. (p. 157-8.)

It would be worthy of mature consideration, whether a systematic extension of factories on the principles which I have submitted as proper on the Mississippi, might not be the means at once of securing the Indians in that quarter, by public benefit, and personal influence, and of opening a vast mart among the inhabitants of Spanish America and those of the United States; and if any savings can be made from the average of public money hitherto allowed to the Indian Department; whether the application of such to the system proposed, would not be an object of national policy, add to the strength and power of Upper Canada, and by no means invalidate the system which I must ever contend to be the best policy, that of not permitting any agricultural settlements beyond the peninsula included between the Lakes Ontario, Erie, and Huron.—(pp. 158-9.)

I beg to observe that, understanding that the agent of the United States holds out the language that all our trade with the American Indians in that territory which had been ceded by the treaty of peace to the United States, would become illegal and contraband in case the forts should be given up, I thought it my duty to state to Mr. Hammond such a dangerous assumption was unwarranted by the definitive construction placed by the Treaty of Utrecht upon the intercourse which Great Britain and France had with the Indians, and which, considering them as free nations, gave to the subjects of both countries the right of treating with them, and carefully secured to the Indians the liberty attached to independent nations, of carrying their commercial articles to such places in the dominions of either nation as they should prefer. And this Article of the Treaty of Utrecht was never contravened till in the year 1756, when the violation of it on the part of the French, as is generally known (but particularly as stated by an author of the United States, Gordon, professedly writing under the directions of Mr. Washington and Congress), was the occasion of the war that broke out between Great Britain and France; nor can the claims of the American Indians, to the natural privileges of independent nations, guaranteed to them by their European neighbours in the compact of Utrecht, be more amply ex-



pressed and implied than in the general representation of the state of the Indian Department, by Sir William Johnson in 1763, to the Lords of Trade, that although fair speeches, promises, and the convenience of trade induced them to afford both us and the French a settlement in the country, yet they never understood such settlements as a Dominion. And the Indian sense of their own dependency is brought down to so late a period previous to the late war, as the 2nd of February, 1769, when a Seneca chief in his complaints against the officer commanding at Niagara, said, as appears by Sir William Johnson's report, We are free people and accustomed to sell whatever we have to whom and where we like best. I think it may not be improper to communicate this statement to you, Sir, as elucidating the ground the merchants of Montreal, in their memoir No. 2, have taken up. At the same time, I am well aware that His Majesty's Ministers, being masters of all the documents which establish or counterbalance the value of the fur trade to Great Britain, in that point of view already possess more precise information than can be collected in this country; but it is possible that a particular view of this commerce considered in the light of an open trade, common to the British colonies, as the representatives of France, and the United States, as those of Great Britain, prior to the year 1763, and subject to no other difficulty than those of amicable competition, appearing to be a matter of great magnitude, may be illustrated by some observations on the actual state of this country. (pp. 182-4.)

\* \* \* \* \*

I consider the fur trade in its present foundation to be of no use whatever to the colony of Upper Canada; an open trade may result from the happy form of Government that is to be established in that country, but it appears doubtful whether even that would add to its prosperity; it certainly would detract from its population and ultimately, debasing the morals of the country, by the ill habits of the *coureurs des bois*, would injure its industry, the source of its future revenue. But Sir, it would appear to me to be productive of great advantages, if, leaving the fur trade to the North-West parts in the hands of the companies who possess or contend for the monopoly of that trade, the Indians themselves, who live near the settled parts of Upper Canada, will be induced to bring the produce of their hunts to those towns and settlements which are about to arise in their vicinity.—(p. 184.)

From Governor Simcoe to Major General Clark, Commander-in-Chief, Quebec.

(Upper Canada MSS, 1783-1795.)

NAVY HALL, NIAGARA, Nov. 25th, 1792.

SIR,—I must beg leave to call your Excellency's attention to a circumstance that may happen, should it be the determination of Washington, as I believe it is, to carry on the Indian war, and in consequence to refuse the British intervention.

In this event, as he seems already to have quitted the original and untenable grounds of the war,—that this Indian territory was ceded by Great Britain,—he will probably, from our influence with the savages, deduce the necessity of perseverance in his operations.—(p. 32.)

\* \* \* \* \*

That it would be so in the event, cannot be denied; that the possession of the Forts has always hitherto been supposed to secure that of the navigation of the lakes is a known fact; and that popular conversation has led the minds of the inhabitants of this country to expect an immediate opposition on our part, of any armament appearing upon the lakes, is a matter of general notoriety. I find no general order to direct my conduct, but that force must be repelled by force; and this interpretation I should certainly place upon any attempt of the United States to pass through those communications, *both shores of which are in His Majesty's possession*.—(p. 34.)

*Extract of a Letter from Colonel Simcoe to Major-General Clark.*

(Upper Canada MSS., 1783-1795.)

NAVY HALL, NIAGARA,  
June 14th, 1793.

The Commissioners for making peace with the United States have remained in this house since the 17th May. They are in expectation of hearing from Colonel McKee when the Indian nations shall be assembled. All the public conversations that I have had with those gentlemen is detailed in the enclosed papers, to which I am to add that, upon my reading to them Lord Dorchester's speech of the 15th August, 1791, to the deputies of the several nations, and the boundary line then given to your Excellency, they have desired copies thereof, particularly as it stated those documents to be those on which I founded my answers to the speeches that have hitherto passed between me and the *Indian Americans*.—(pp. 42-3.)

*From the Duke de la Rochefoucault's Travels in Canada in 1795.*

(Upper Canada MSS., 1783-1795.)

MONDAY, June the 22nd, 1795.

\* \* \* \* \*

The British Possessions in North America are divided into Upper and Lower Canada, New Brunswick, and Nova Scotia. Only the first two of these Provinces are governed by the new constitution. The others are governed as in former times. The boundary between Upper and Lower Canada lies about one hundred miles above Montreal.

The extent of Upper Canada far exceeds that of Lower Canada, as, the western boundary being undefined, it comprises all the known and unknown countries extending as far as the Pacific or Great Sea, and is bounded also northwards by unknown countries.

The population of Lower Canada is estimated at about one hundred and forty thousand souls, and that of Upper Canada at thirty thousand, but this estimate seems rather high. (p. 222.)

*Letter from Robert Hamilton to Governor Simcoe.*

(Simcoe Papers, Vol. I, pp. 580-587.)

NIAGARA, January 4th, 1792.

The trouble this letter gives you does not arise from vanity, in wishing to correspond with a person high in office, as you are. My only motives are the good of my native country, and my attachment to the interests of this part of her dominions, in which I have resided for many years. We have just heard of your arrival in America, invested with power to terminate all differences, and to form new treaties, between Great Britain and these States. The line of division between their western frontiers and our possessions, and between them and our friends the Indians, must necessarily be an object of considerable consequence in your arrangements with them. Any information on these subjects I trust will be acceptable; the obscurity of the source from whence it comes, is not the question.



When Mr. Oswald made a peace with the Americans in 1783, he evinced his total ignorance of this country and its true interests, in the line he fixed as the boundary between us and them, from the place it joins the St. Lawrence, above Montreal, to its termination in the unknown regions of the North-West.

Navigable rivers and lakes surely form the worst possible boundaries betwixt commercial nations settled on the same continent, as on a high-way their carriages must certainly meet. They will often jostle, and endless contention and strife must ensue. By this time we should have given up every post and possession we then held in this country, the small picketted posts of Fort Erie only excepted. Oswegatchie, Carleton Island, Oswego, Niagara, Detroit and Michillimackinac, all must have been yielded up to the Americans: nor was this all. By this line, a free opening was afforded our rivals to reach our most distant and most valuable trading posts. In many of the most essential articles for the fur trade, they have considerable advantages over the adventurers in the Province. I shall only mention Spirits, the produce of one of their most considerable manufactures, and East India goods, now a material article in their commerce. Soon, in consequence of this ill-judged line, must our fur trade have been annihilated, had not our rulers, possessed of better information, declined, for this and other reasons to fulfil that part of the Treaty, which respected the surrender of the posts. Thus has the business remained undecided to this day.

\* \* \* \* \*

On this last point, I would gladly hope my present address may be found to have some merit. Between the Americans and the Indians, some line along the Ohio from some determined latitude to its most northerly source, will probably constitute the bounds. Between us and them, this line, continued across the High Grounds, from the northern head of the Ohio to the western head of the Genessee River, and down that stream until it falls into Lake Ontario, about sixty miles east of the Fort of Niagara, would in all probability constitute a boundary which would not encroach on either party's present possessions, and would secure both from that intervention of mercantile interests which will otherwise involve us in constant disputes, and in eternal quarrels. Neither the higher part of the Ohio, nor any part of the Genessee River, being calculated for the purposes of extension of navigation, promise a more peaceful boundary than that fixed by Mr. Oswald.

\* \* \* \* \*

Let me here observe, that long before the English held a foot of land in the Province, the French, on this very ground, had formed a plan of an empire, perhaps as grand as was ever devised by man. They projected the site of this on two of the finest rivers in the world—on the banks of the St. Lawrence and of the Mississippi, where streams in some places almost unite. Such a plan was, however, only calculated for the first commercial country in Europe, and who might command at sea. Possessed of the two ports of Quebec and New Orleans, without further effect than regulating to the best advantage the internal police of this extensive country, without further expense than might be necessary to render the inhabitants prosperous, happy and free, she would in time enjoy a market for her manufactures, extensive almost beyond calculation. In return, she would exclusively receive the furs of the north, with all the most desirable products of perhaps the finest soil of the world, in all the different latitudes from Michillimackinac to New Orleans. Whether Britain may ever have had this in her power, or whether the day may not yet return with an offer of those manifold advantages, it is not for me to decide. It might be worthy of the exalted character, at present at the helm of her affairs, to have so glorious a prospect in his eyes. Already have I sufficiently trespassed on your patience.

That every success may attend your important negotiation, is the sincere prayer of,

Sir,

Your most obedient, very humble servant,

R. HAMILTON.

*From Henry Dundas to Lord Dorchester.*

(Simcoe Papers, Vol. I. pp. 430–433.)

BOUNDARY QUESTION.

WHITEHALL, 15th March, 1792.

MY LORD,—Your Lordship being already apprised of the intention of His Majesty's servants to endeavour to secure whatever may operate as an effectual and lasting barrier between the frontiers or territories of the American States and His Majesty's dominions in that quarter, I shall now only refer your Lordship to my letter of the 16th September last, and to the late unhappy contest between those Indians and the States, to prove the expediency of such a measure.

To obtain so beneficial an end, and at the same time to heal the difficulties which at present exist, a plan was suggested in some late communications between your Lordship and His Majesty's servants, which your Lordship appeared to think extremely advisable, if it could be carried into execution.

The idea suggested was, that His Majesty and the American States should join in securing exclusively to the Indians a certain portion of territory lying between and extending the whole length of the lines of their respective frontiers, within which both parties should stipulate not to suffer their subjects to *retain* or acquire any lands whatever.

And although, in consequence of such a cession, the frontier posts now in His Majesty's hands would be given up, your Lordship appeared to coincide with them in opinion, that the objection to this measure would be much lessened by the circumstance of their not being to come into the possession of the American States, but for to be ceded for the express purpose of becoming part of such territory as is to be reserved for the undisturbed and independent possession of the Indians. By placing the Indians in such a position, they will become a natural barrier against mutual encroachments, and at the same time hold a situation in which their attachment and friendly disposition to His Majesty's subjects may be capable of the most servicable operation. These and various other considerations, from which the most beneficial consequences must accrue to this country, have induced His Majesty's servants to adopt such measures as appear best calculated to carry the plan into execution. Lord Grenville has in consequence received the King's directions to authorize Mr. Hammond to propose His Majesty's good offices, between the American States and the Indians, for the establishment of a permanent peace between them, founded on the principles of securing to the latter such a tract of country as has been already mentioned, and in furtherance of which, the King is most graciously pleased to grant his aid and assistance, and to relinquish, if need be, the posts actually in his possession, the more effectually to secure and establish so important an object.

For this purpose, I must desire your Lordship to lose no time in transmitting to me your ideas in respect to such precise limits, (whether the same are in a greater or less degree favourable to the interests of the country) as, being secured to the Indians, would in your judgment be sufficient to answer the end proposed.

In doing this I wish particularly to call your attention to that part of the country in question which lies to the south and south-east of Lake Ontario, and the upper part of the St. Lawrence, as a proposal made to your Lordship on this subject by some of the Indians, previous to your leaving Quebec, does not appear to be quite distinct, and as the near approach of the American frontier, in that quarter, to the settled parts of His Majesty's Provinces, appears to render this an object deserving of particular consideration.

Your Lordship's intimate acquaintance with His Majesty's interest in that quarter of the world, and with the relative situations of his subjects, and of those who are to form the barrier between them and the American States, makes it unnecessary for me to enter into any detail.

I shall only add that, in ascertaining the territory to be granted to the Indians, three points I can see are principally to be attended to: one, to secure as much as possible, our intercourse and trade with the Indians; the second is, that the interposed country, to



serve as a barrier, should extend along the whole line of the frontier of His Majesty's dominions, and that of the United States of America. And lastly, to take care that their intervention, and the space to be allotted them, shall be most considerable in such parts of His Majesty's frontier, as from their situation are most obvious to attack or interruption from any quarter belonging to the American States.

I am, &c., &c.

HENRY DUNDAS.

To Lord Dorchester.

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*From George Hammond, Esq. to Lieut-Governor Simcoe.*

(Simcoe Papers, Vol. I, p. 463.)

PHILADELPHIA, APRIL 21st, 1792

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I was fully sensible of all the advantages which Great Britain would have derived from her mediation being admitted; but I saw from the first that the jealousy of her acquiring either an additional influence over the Indian tribes, or the right of intervening in any future disputes, would be an insuperable impediment to the request or acceptance of that expedient on the part of this country.

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*From Governor Simcoe to Henry Dundas.*

(Simcoe Papers, Vol. I, p. 472.)

QUEBEC, APRIL 28, 1792.

\* \* \* \* \*

I am happy to find that these communications have appeared of importance to Mr. Hammond, as, in a letter of the 3rd March, he says: "Capt. Stevenson was so obliging as to leave with me a copy of a representation addressed to you by the merchants of Montreal; and also a map of the country to the northward of the Lakes Huron and Superior. When my negotiations with this Government are more advanced than they are at present, these documents will be of essential service to me, as they convey to my mind a much more correct idea of the nature and importance of that country, than I had ever before entertained. I could, however, have wished that the position of the Grand Portage on Lake Superior had been laid down on the map with somewhat greater precision."

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*Memorandum by Governor Simcoe, enclosed in the foregoing Letter, (April 28th, 1792.) taken from "Gordon's History of the Revolution."*

(Simcoe Papers, Vol. I. pp. 487-8.)

"The year after the Peace, a grant of 600,000 acres of land, in the neighbourhood of the Ohio, of the finest American land, was made out to certain noblemen, merchants and others of Westminster, London, and Virginia, who associated under the title of the Ohio Company. The Governor of Canada obtained early intelligence of it, and was alarmed with the apprehension that a scheme was in agitation which would forever deprive the French of the advantage arising from the trade with the Twightwees, and cut off the com-

munication so beneficial to the Colonies of Louisiana and Canada. He wrote, therefore, to the Governors of New York and Pennsylvania, acquainting them that the English traders had encroached on the French territories by trading with their Indians, and that if they did not desist, he should be obliged to seize them wherever they were found. This was the first time that either French or British had pretended to any exclusive trade with the Indians, or even the declared friends and allies of either, for it was expressly stipulated at the Treaty of Utrecht that on both sides the two nations should enjoy full liberty of going and coming among the Indians of either side, on account of trade, and that the natives of the Indian countries should, with the same liberty, resort as they pleased to the British or French Colonies for the purpose of trade, without any molestation from either the British or French subjects."

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*Extract of a letter from P. Campbell to Robert Hamilton, Esq., 1792.*

(Simcoe Papers, Vol. I., p. 559.)

(About spies to be sent to the United States.)

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They say if the first should fail, the last would not. I cannot therefore help thinking, that Colonel Simcoe ought to support the Indians openly, even at the risk of being recalled; and if the British Government allow them to be crushed, that they will repent it when too late, and beyond their power to retrieve. It haunts me most to think that these designing political rascals will wrench the outposts out of your hands, probably when least suspected, and brave you to the face when that is done.

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*From Lieut.-Gov. Simcoe and Colonel A. McKee to George Hammond, Esq., 1792.*

(Simcoe Papers, Vol. I. pp. 517, 518.)

Suppose a boundary should be settled on the following terms:—

1. The Indian territory to form a line separating the British territory and that of the States.
2. The posts of Niagara, Oswego, Detroit, to be demolished and not held by either, and included in the Indian territory.
3. Michillimackinac to be evacuated.
4. The Genesee territory, but no posts, to be continued to the United States, and as a proper balance to Great Britain.
5. From the Rapids of the Miami River, or from the Rivière au Raisin on the east, to the River St. Clair on the west, and two leagues deep to the south: this seems to have been the original allotment of Congress, therefore, more reasonable to presume that they would admit it. By these proposals being adopted, the settlement of Detroit would be amenable to the British jurisdiction, otherwise they would become lawless vagabonds, and, it is obvious, injurious to the system of peace so necessary to the United States, Indians, and the British.

The settlements extend to the Miami Rapids. This arrangement, it is probable, would perpetuate peace between the different nations.

(Signed)

J. G. SIMCOE,  
A. MCKEE.

To His Excellency, G. Hammond.



*From Lord Dorchester to Col. Simcoe, Commanding the Forces in Upper Canada.*

(Simcoe Papers, Vol. III. pp. 71-3.)

QUEBEC, 17th March, 1794.

SIR,—The account received by Lieut.-Col. England of Mr. Wayne's intention to close us up at Detroit, I think the more probable from the conduct which I find has been pursued for the two last summers on the side of Lake Champlain, where the King's sovereignty has been completely overturned within the posts ; and they now impudently tell the Commandant that his jurisdiction extends no further than his guns ; even this, I expect, in a short time they will not allow.

Self defence, therefore, requires we should prevent similar evils from extending further, and that, for our own security at the Detroit, we should occupy nearly the same posts on the Miamis River which we demolished after the peace. This, I think, would cover Detroit and our communication with that settlement from Lake Erie ; but if given up, the post, I apprehend, cannot be maintained. At the same time that all necessary measures for our defence are taken on the land side, the lakes must not be neglected ; it may for this purpose be necessary to arm the ships and vessels completely, in order to preserve our command on the water also ; and if you find this expedient, you will order it accordingly. Your own experience and local knowledge will point out to you the force to occupy the Miamis, as well as the most advantageous positions, without confining yourself to the spots we occupied in 1783. You will therefore order such force from Detroit to the Miamis River as you may judge sufficient for that service, as soon as the season and other circumstances will permit, observing only the general directions to preserve Detroit from being streightened either by land or water. At the same time that you order a portion of troops from Detroit, with the artillery requisite for that purpose, it may not be amiss to consider what reinforcement you may draw from other parts within your command without exposing any to insult, and what assistance you may have from the militia ; also whether, by collecting all the force in your power to assemble, you would be in a condition to resist Wayne's attack, should he attempt by force to take possession of the country. I enclose a copy of my answer to the message from the Indians of the upper nations, which will sufficiently explain itself.

I am, with regard, Sir,

Your most obedient, humble servant,

DORCHESTER.

Colonel Simcoe,

Commanding the Forces in Upper Canada.

*From Lord Dorchester to Governor Simcoe.*

(Simcoe Papers, Vol. III. p. 127.)

QUEBEC, 16th April, 1794.

SIR,—The frequent frauds and embezzlements of the King's stores belonging to the Indian department, at Michilimakinac (notwithstanding the vigilance of the Commandant) have induced me to consign the supplies of this year to Colonel McKee, and I have appointed him superintendent of Indian affairs for the districts of Michilimakinac and Detroit, that he may the better check all abuses, and introduce due order into the department.

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DORCHESTER.

Governor Simcoe.

*From Governor Simcoe to Lord Dorchester.*

(Simcoe Papers, Vol. III. pp. 96-8.)

NAVY HALL, April 29th, 1794.

MY LORD,—I take the earliest opportunity of forwarding to your lordship a letter which I received from the Spanish Governor of Louisiana, together with my answer.

The Lieut.-Governor of that Province, Captain Trudeau, who has been remarkably civil to our traders, forwarded the message by a white man, a Shawanese, well known to Colonel McKie. In a very polite letter which he writes to me, this gentleman observes: "Le Gouverneur en a donné connoissance du contenu, ce qui me fait présumer qu'il n'avoit pas des notions bien parfaites du local, lorsequ'il a porte ses vues sur votre continen." The Shawanese was twenty days from St. Louis, and expected to be only fourteen on his return.

It was intimated to him that it would be easy for the Spanish if requisite to co-operate with us by their gun boats which they have on the Ohio, and by occupying the mouth of the Wabash, to give a similar support to the intermediate Indians, as our possessions at the mouth of the Miamis of the Lake affords.

I must observe to your lordship, that a few days previous to my arrival at the Miamis, a speech had been sent by the Spanish Lieut.-Governor to the neighbouring nations, and which had been transmitted to Detroit, calling upon them for their assistance, and promising the most active support. This speech, it is believed, has produced the most important effects, scarcely leaving a single Indian nation without the determined resolution of attacking the United States; in particular the Chicasaws, before the departure of the Shawanese had cut of ten of the Kaskaskias, suspected of being well affected to the United States. It was also intimated to the Shawanese, that by the route of Chicago it was extremely practicable for British troops to pass.

I have always been of opinion that a post at Chicago would be more eminently necessary to His Majesty's interests, in case of war, than that of Michilimacinae. I am confirmed in this belief by existing circumstances as represented by Colonel McKie.

At this place there are some people, refugees from Detroit, and a black chief, who have constantly been in the pay of the United States, and who, by some possible means, have endeavoured to alienate the Indians from the British interests. Colonel McKie thinks it very necessary that an agent should reside in that quarter, as till of late has been usual.

In my answer to Mr. Trudeau, I enclose to him your lordship's late proclamation against the Jacobin emissaries; observed to him that the French inhabitants of the Illinois and at Vincennes were eminently of this description, by the account of the Shawanese. The Spanish Government acts with great vigour in that part of the country, and he expressed his surprise at the very different language which was held by the British Canadians, in respect to the subject of the United States, to what was permitted at St. Louis.

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J. G. SIMCOE.

Lord Dorchester.

*From Right Hon. Henry Dundas to Lieut.-Governor Simcoe.*

(Simcoe Papers, Vol. III. pp. 143-4.)

NAVY HALL, July 3rd, 1794.

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It may not be improper to observe that the original and material aggression of the United States appears to have been their Government immediately changing the relative situation in which the peace of 1783 had left the contending parties, namely, themselves



and Great Britain, by endeavouring to possess themselves of the whole of the Indian territories by fraudulent or by forcible means ; and in consequence, by the annihilation of this intermediate power between them and the British possessions, occasioning the destruction of the whole of the commerce, and endangering the safety of His Majesty's provinces. To prove this intended alteration, the Act of Congress for the formation of the new States, and the names given them by the committee of which Mr. Jefferson was President, are sufficient evidences. That it was some fraudulent means used, appears upon the face of the purchases made from the Indians, and His Majesty's honoured name is brought into attaint by the Governors of the country, to give a sanction to their purposes. The fraud consists in the affirmation that the Indian territory had been given away as "the price of peace." This is the term which Governor St. Clair made use of, and which the Corn Planter, in February 8th, 1791, intimates in his speech to the President, Washington, to be the language of the people who purchased the lands from the Indians, and demands from him an explanation.

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HENRY DUNDAS.

Lieut.-Governor Simcoe,  
Upper Canada.

*From Governor Simcoe to Lord Dorchester.*

(Simcoe Papers, Vol. III. pp. 390, 1.)

NAVY HALL, Aug. 18, 1794.

MY LORD,—I do myself the honour of enclosing to your lordship the communications which I received late last night from Lieut.-Col. England and Col. McKie.

I shall lose no time in proceeding to Detroit with all the force I can muster, leaving the garrison of Niagara with its usual complement of infantry, and ordering the artillery then at Kingston to supply in part those whom I shall think necessary to carry with me to Detroit.

The whole detail of this arrangement will be transmitted to your lordship so soon as it shall be decided upon. I cannot flatter myself with much hopes of repelling Mr. Wayne, and feel that my own character as a military officer must suffer in the extreme ; but an honourable devotion to the public service bears me up above all personal considerations, and it is possible that my character as Civil Lieut.-Governor may enable me to promote His Majesty's interests. The people of the States, as predicted, have heavy artillery at Le Boeuf. The Six Nations, I believe, remain steadfast in their opposition to the establishment at Presque Isle.

Should your lordship be reinforced, and at this crisis augment the force in this Province so as to enable me to meet Mr. Wayne on equal terms, and His Majesty's troops in such an event be successful, I cannot but foresee the perfect safety of the Canadas as the result of such a measure, as in all probability, if he be permitted to establish himself at Detroit, it may eventually occasion their loss.

I have the honour to be, &c.,

J. G. SIMCOE.

Lord Dorchester.

(Simcoe Papers, Vol. III. pp. 399, 400.)

NAVY HALL, August 30, 1794.

SIR,—Since the close of my dispatch of the 10th instant, information of the most serious aspect has been received from the Indian country.

General Chapin, the Agent for the United States to the Six Nations, has sent to meet those people immediately at Buffalo Creek ; and his messenger intimates that Mr. Wash-

ington has complied with their demand so far as to give directions that Presque Isle shall not be occupied, and the Forts at de Boeuf shall be abandoned. Lieutenant-Colonel England informs me that Wayne is rapidly advancing (by report) with near four thousand troops. But what is alarming, the Hurons have peremptorily returned the hatchet which they had formerly received from Governor Hamilton, demanding him to sharpen it and instantly to join them, as they must cease to defend their country. The next step, in all probability, would be to defend ours. The report in Wayne's army is, that he has positive orders to reduce our fort at the Miamis, and in the ensuing spring to attack Detroit. I have detached Captain Bunburg, of the 8th Regiment, to occupy Turtle Island, at the entrance of the Miamis Bay, hoping by a continuation of our gun-boats and vessels at that place to prevent any access to the Miamis River, or express from it. If Mr. Wayne pushes on to Detroit, you, sir, must, of course, be prepared to hear that it is in his possession. I have characterized it truly to Lord Dorchester, on his arrival, as "a nominal fortress with a nominal garrison."

I have the honour to be, with all respect,  
&c., &c.,

Right Hon. H. Dundas.

J. G. SIMCOE.

## EARLY POPULATION OF THE COUNTRY BETWEEN LAKE MICHIGAN AND THE MISSISSIPPI.

### MICHIGAN COMMISSION ON LAND CLAIMS.

*Extract from the letter of instructions to the Agent appointed to receive claims and take evidence concerning land claims at Green Bay and Prairie des Chiens.\**

#### TERRITORY OF MICHIGAN,

Land District of Detroit, August 8, 1821.

It is not practicable for the Commissioners to prescribe the period of time which, by your notices, you will assign at Green Bay and Prairie des Chiens respectively, for receiving the evidences of claims and titles. The law requires *reasonable* notice; what may be deemed *reasonable* notice must depend upon the number of claimants and the remoteness of their relative situations. You must judge of it.

Though the settlement of Green Bay is spoken of by Charlevoix as early as 1720, yet it is believed the whole number of claimants there cannot exceed one hundred and fifty. The settlement at Prairie des Chiens is supposed to have been some thirty years later, though the number of claimants is believed to be considerably greater; but, in respect to both, it is said the settlements are quite compact. All the traditionary or other information which can be procured by you concerning the origin and history of these settlements would be very desirable, and may be of much use in the ultimate investigation of their land claims.

WM. WOODBRIDGE,  
*Secretary of Michigan.*

PETER AUDRAIN,  
*Register.*

J. KEARSLEY,  
*Receiver.*

} Commissioners.

ISAAC LEE, ESQ., Agent, etc.

*Report of Michigan Commissioners concerning the land titles at Prairie des Chiens, in the County of Crawford, and Territory of Michigan. (1828.)†*

Few difficulties have been met with by the Commissioners in their investigation of these titles; they are not individually intricate. The determination of a few principles

\*American State Papers, Vol. 5, pp. 306-7.

† American State Papers, vol. V. pp. 303-5.



of general applicability has furnished a rule by which they have all been decided, for they rest upon long continued possession.

Notwithstanding the high antiquity which may be claimed for the settlement of Prairie des Chiens, and the very great considerable numbers of which it has so long consisted, no one perfect title, founded upon French or British grant, legally authenticated, has been successfully made out; comparatively but few deeds of any sort have been exhibited to us. To an American, unacquainted with the astonishing carelessness of the Canadians in respect to whatsoever concerns their land titles, this fact must seem unaccountable. It nevertheless accords with whatever is known in this regard of the French population throughout this country.

It became manifest, therefore, immediately after the Commissioners were possessed of the report of the Agent, that whatever claim the people of Prairie des Chiens might have for a confirmation of their land titles, must be founded upon proof of continued possession since 1796,—a basis sufficiently broad to have comprehended perhaps all their claims, but for the changes which have occurred within a few years among them, and the interruptions and occasional evictions from their possessions, consequent upon the establishment there, since the late war, of bodies of American troops.

Such interruptions and evictions, though frequent since the period alluded to, seem never, among the French population, to have excited a spirit of resistance, but to have been submitted to in silence. Since their ancestors were cut off, by the treaty which gave the Canadas to the English, from all intercourse with their parent country, the people, both of Green Bay and Prairie des Chiens, have been left, until within a few years, quite isolated, almost without any government but their own. And although the present population of these settlements are natives of the countries which they inhabit, and consequently are by birth citizens of the United States, yet, until within a few years, they have had, apparently, as little political connection with its Government as their ancestors had with that of the British. Ignorance of their civil rights, carelessness of their land titles, docility, habitual hospitality, cheerful submission to the requisitions of any Government which may be set over them, are their universal characteristics. With those who know them, their quiet surrender of their fields and houses upon the demand of those who came ostensibly clothed with authority, would constitute no evidence of the illegality of their titles, or of the weakness of their claims.

A few additional remarks, in conclusion, might seem sufficient to satisfy the requisition of the law, and to explain adequately the grounds of the decisions the Commissioners have made. A circumstance has occurred, however, which seems to call for a more detailed exposition of their views. After the Agent had returned from Green Bay and Prairie des Chiens, and when it seemed too late to obtain rebutting or further testimony, a caveat was filed with the Commissioners, at the instance of the Superintendent of Indian trade, by John W. Johnson, Esq., Indian Factor, against the claim to Village Lot No. 14, preferred by the American Fur Company. The principles upon which that caveat is founded, and by which it is endeavoured to be supported, apply with equal force to all the other land claims at Prairie des Chiens. The objections against the claim, and the documents adduced in its support, consist in this—that the settlement at Prairie des Chiens is of recent origin; that its residents have intruded upon the public lands in violation of the laws of the United States, and that, in truth, the Indian title to the country in question has not been extinguished; objections which, if sustained in one case, must conclude all cases there. Upon a critical examination of this matter, so unexpectedly and so recently presented to them, the Commissioners have not been able to discover anything in the protest of the United States Indian Factor, in the documents he has adduced, or in his own fair and candid statement, which could sanction a doubt as to the propriety of confirming the claim set up by the American Fur Company.

It appears to have been in the spring of 1673 that Pierre Marquette and Mons. Joliet took their departure from the French establishment at Green Bay, on a voyage of discovery up the Fox River, and down the Wisconsin to the Mississippi. This channel of communication between the great lakes and the Mississippi, from about that period, had attracted a considerable portion of public attention. The French voyageurs continued afterwards generally to take that route; their Indian traders most usually did; and it is the same channel through which Carver also penetrated into the Mississippi country in 1766.

Although the Commissioners have not, on this head, been able in so short a time, to procure that ample and certain information which is desirable, yet it is believed that not very many years after its first discovery in 1673, by the French, a permanent establishment was made by them at the Prairie des Chiens. Vestiges of an old and a strong *French* fort are still discernible there, although it is stated to have been destroyed so early as in the first years of the Revolutionary War.

When, in 1805, the late General Pike was on his voyage up the Mississippi, he computed the fixed white population of the place, in the absence of the traders and those connected with them, at 370, and the total number at from 500 to 600. Mr. Schoolcraft, in 1820, estimates the population of the place at 500. No evidence can be obtained from the traditional history of the country that, at any *one* period, that settlement has received, by emigration, any sudden and large augmentation in the number of its inhabitants. It has never been characteristic of the French Canadian settlements to increase rapidly, and it is considered a fair inference, from all that can be learned on the subject, that for a long and indefinite time its numbers have been considerable, and increasing only at a tardy pace. This consideration is supposed to be eminently corroborative of the position the Commissioners have assumed, of the antiquity of this settlement.

With what propriety the inhabitants of Prairie des Chiens who were born there, and whose ancestors have for more than a century resided there, may be said to have "taken possession of the public lands in violation of the laws;" how *they* may be said to be "intruders" who, and whose ancestors through so many political changes, have, with the assent, express or implied, of each successive sovereignty, continued to inhabit the country which gave them birth, it is hard to imagine.

It has been urged against them that their only right in the soil which they occupy consists in the *permission accorded them by the Indians to remain there*. Surrounded as that settlement always has been, by numerous hordes of ferocious savages, quite well disposed at all times to cause their power to be felt, it may, perhaps, be emphatically said (especially since the power of the French Government here was overthrown) that its inhabitants have occupied their lands "*by permission of the Indians*." Left with none to defend them, they must have accommodated themselves to their humours; it has from *necessity* resulted that they have been compelled to submit to their commands, and, however reluctantly, to subserve, perhaps often, their vindictive views. But it is not considered that anything in their history, in such respects, detracts from the force of their present claims.

The Commissioners have not had access to any public archives by which to ascertain, with positive certainty, whether either the French or English Government ever effected a formal extinguishment of Indian title at the mouth of the Wisconsin; yet the same observation, with the same truth, may be made in relation to the land now covered by the city of Detroit. It is believed that the French Government particularly, was not accustomed to hold formal treaties for such purposes with the Indians. And when lands have been anciently procured from them, either in virtue of the assumed right of conquest or by purchase, evidence of such acquisition is rather to be sought for in the traditional history of the country, or in the casual and scanty relations of travellers, than among collections of State papers. Tradition *does* recognise the fact of the extinguishment of the Indian title at Prairie des Chiens by the old French Government before its surrender to the English. And by the same species of testimony, more positive because more recent, it is established also that, in the year 1781, Patrick Sinclair, Lieutenant-Governor of the Province of Upper Canada, while the English Government obtained over this country, made a formal purchase from the Indians of the lands comprehending the settlement of Prairie des Chiens.

In Pike's Journal allusion is made to the last-mentioned purchase (Pike's Journal, appendix to part I. page 47). The Agent also took down some testimony concerning the same facts, which may be found in the subjoined abstracts.

Whatever purchases may thus have been made by the French or British authorities have since been sanctioned by the Treaty of St. Louis, holden June 3, 1816; and by another treaty (see Acts of 2nd Session of the 14th Congress, pp. 307-309), concluded also at St. Louis, on the 24th of August, of the same year. It is provided (Art. 2) that the United States relinquish to the tribes with whom that treaty was holden, a certain tract of country lying north of a west line from the south bend of Lake Michigan, "*except-*



ing out of said relinquishment a tract of *three leagues square at the mouth of the Wisconsin*, including both banks," &c.; thus giving additional sanction to the allegation of a previous acquisition of the country comprehending the Prairie des Chiens settlement. For it will not escape observation, upon a reference to the Treaty of November 3, 1804 (U. S. Laws, vol. I. p. 428), that the last-mentioned treaty *does not contain a cession of the tract thus excepted by the United States from their relinquishment*. The real object of the clause alluded to in the treaty of the 3rd November, it is apprehended, was to enable the United States, in its election, to erect a fort on the west bank of the Mississippi, where the Indian title had not yet been extinguished, and where a more eligible site, it is supposed, could be selected.

If further evidence were necessary on this head, it might be found perhaps in the provisions of the fourth Article of the Treaty of Greenville. The settlement of Prairie des Chiens lies "*east of the Mississippi*;" it is "*west*" from Detroit. It was certainly "*in the possession of the French people*," who, or whose children, still inhabit it. It is believed to be comprehended within both the words and the spirit of the provisions of the third and fourth Articles of that Treaty.

After all, it is not deemed important (except so far as it may seem to strengthen the equity of the claimants) to establish the proposition of an early extinguishment of the Indian title. There can be no doubt but that the Indian title is *now* extinguished. It would be hardly admissible to suppose that the American government have been themselves guilty of an act of oppressive usurpation and violence; and yet it cannot otherwise be if the Indian title be not extinguished—for they have erected forts and established garrisons there. It would equally violate every principle of decorum for the Commissioners to suppose that they had no power, and that the people of Prairie des Chiens had no right in relation to this matter, when the law of May 11, 1820, under which they act, expressly extends to that people all the benefits and all the rights which, in virtue of former Acts of Congress, the people residing within the Detroit land district heretofore possessed in relation to their land titles; and also imperatively requires of the Commissioners that they give effect to that act.

The Act of March 3rd, 1807, vested in those for whose benefit it was passed, a right to be confirmed in their claims upon the exhibition of proof of continued possession from July 1st, 1796 to March 3rd, 1807, inclusive. The extension to the people of Green Bay and Prairie des Chiens, of the provisions of that Act, it is presumed, conferred upon them, upon the exhibition of like proof, a like right. Proof of this tenor has been adduced by John Jacob Astor, Ramsay Crooks, and Robert Stewart, co-partners under the firm of "The American Fur Company," (formerly styled "The South-West Company,") as well as by others whose claims they have confirmed, and the Commissioners have not felt themselves justified in adopting any course of reasoning which would frustrate the object of that law from which they derive all the power they have possessed.

A majority of the Commissioners have felt obliged, nevertheless, to withhold from many of the claims the sanction of their confirmation; not because those claims were less equitable, but because the proof adduced of occupancy, possession and improvement did not reach far enough back; they considered that the possession, etc., contemplated by the law was an *individual and exclusive* possession, from July, 1796, to March, 1807. The fact in relation to the claims not confirmed seems to have been that the lands so claimed had been immemorially occupied by the villagers in common, or as a common, and that they had not been individually and exclusively appropriated until after July, 1796.

As no dissent on the part of the villagers was at any time expressed, or rather as none was *proved* or attempted to be proved, one of the Commissioners was willing to deduce from circumstances appearing a presumption of assent, equivalent to a formal conveyance. Upon such hypothesis the present claimants, combining their own exclusive possession with the antecedent occupancy of the villagers in common, "under whom" they might be considered to claim, would be respectively entitled under the law to confirmations; but a majority of the Commissioners, believing that such construction was at least obnoxious to much doubt, felt obliged reluctantly to reject it, and, without further difference of opinion, they all resolved to present with these cases to the revising power their respectful and most earnest petition in behalf of the unsuccessful claimants, that their claims may be confirmed. Although some of these claimants have been in the exclusive occupancy of their possessions but for a very short

space of time, yet their claims are considered not the less meritorious, for those who have thus remained in possession for the shortest period, would seem to have been removed from their former and older possessions, because those possessions were deemed necessary for the convenience of the troops by *whose* permission they have located themselves on the tracts now claimed.

Few cases have ocured at Prairie des Chiens, in which different claimants have applied for the same tract. In regard to other districts of country, much perplexity has been experienced in the selection among many, of that claimant in whose favour the title of right should be confirmed. The Commissioners have uniformly acted upon the principle that their power was intended to be exercised only as between the Government and claimants, and not as between several conflicting claimants. Doubts having been expressed, however, by members of the Supreme Court, as to the power of that tribunal to interfere after the emanation of patents, the Commissioners have become sensible that, without intending it, they might effect injustice by confirming the title in one whose claim, when exhibited before a court having chancery powers, might prove to be much less meritorious than the conflicting claim of some other person. It is most manifest, nevertheless, that a Board of Commissioners constituted as this Board is, are not competent to the undertaking of deciding, in the last resort, between contending individuals. Their proceedings are, of necessity, summary. They cannot administer suppletory oaths to the contending parties, and they have no control over their consciences. Their forms of prodecceing are utterly unlike those which obtain in regularly constituted Courts; *forms* which, however slow and troublesome in their operations, are yet the surest guarantee of justice.

They therefore respectfully submit to the revising power, in order to obviate all doubt, the propriety of causing to be inserted in the patents which may issue, clauses saving by express words the rights of all individual claimants; such saving clauses will be in conformity with every decision which has been made.

It only remains for the Commissioners further to remark that, in making abstracts from the testimony adduced, they have felt disposed, in order that their report may be less encumbered with useless matter, to exclude as well copies of all deeds of individuals in cases where they have been satisfied that *bona fide* transfers have been intended, as also irrelevant matter contained in depositions taken.

All of which is respectfully submitted.

WILLIAM WOODBRIDGE,  
*Secretary of Michigan.*

HENRY B. BREVOORT,  
*Register of Land Office, Detroit.*

J. KEARSLEY,  
*Receiver of Land Office, Detroit.*

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*Report of Michigan Commissioners concerning the Land Titles at Green Bay, in the County of Brown, Territory of Michigan. (1828)\**

Except that this French settlement is older than that of the Prairie des Chiens, the claims of its present inhabitants rest upon the same basis.

As the same general observations will apply to each class of cases indiscriminately, the Commissioners beg leave to refer to the views they have submitted in their report relative to the Prairie des Chiens titles.

Perè Allowez,† an enterprising Catholic missionary, became located at Green Bay, superintending a religious establishment there in 1668; and from that period the settlement at "La Baye" does not seem to have been discontinued while the French remained

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\* American State Papers, v<sup>o</sup>. V. pp. 283-4.

† Allouës.



masters in Canada. The Chevalier de Tonti, having under his command a military force, was stationed there in the winter of 1680. The Lieutenant de Luth, a few years afterwards, held military occupancy of the post under the superintendency of the Commandant of Michilimackinac, of which it was a *dependency*.

During the whole period alluded to, the Fox Indians (by Charlevoix called the Out-gamies) seem to have been deemed the proprietors of the country comprehending this settlement. (The Winnebagoes may rather be considered sojourners, their establishment there being of recent origin, *than proprietors of the soil*.) These (the Fox Indians) were attacked and signally defeated by the French troops under Captain Morand, with the aid of their allies, the Chippewas, in the winter of 1706, at a place called "La Butte des Morts." A great proportion of them were destroyed in this engagement, and many driven from the country. Upon this historical fact is probably founded the frequent assertion that the country of Green Bay accrued to the French by conquest.

It has been asserted, however, with more positiveness, that the French Missionary, Père Roquette, very many years ago, obtained the possession of several leagues square of this country, comprehending the fort and the whole French settlement. This fact it would have been desirable more fully to establish; but having had access to but few books which treat of the early history of this country, no further light could be obtained on the point, except the above insulated assertion.

But, however this fact may be, "La Baye" was continually occupied as a military post and a missionary establishment, until the Canadas were by treaty surrendered to the British. It seems a fact equally well established, that the latter continued for some time after their acquisition of the country, to keep a military force at Green Bay as a dependency of their more important one at Michilimackinac. The same evidence which tends to establish the fact of the purchase by Lieut.-Gov. Patrick Sinclair, by a treaty holden in 1781, at Michilimackinac, of the country at Prairie des Chiens, establishes also the further one of the purchase of the country of Green Bay.

The antiquity of this settlement being, in the view of the Commissioners, sufficiently established, and they being also satisfied (especially when the subject is considered in connection with the references and the matter contained in their report, concerning the land titles of Prairie des Chiens) that the Indian title must be considered to have been extinguished, little further, on the part of the Commissioners, seems requisite to elucidate the governing principles of their discussions; a repetition here of the matter of their report of the Prairie des Chiens claims can hardly be esteemed necessary.

It will be perceived that a few claims have been confirmed at a place called the Kakalin. Those claims are considered to have been comprehended within the settlement of Green Bay. (See Schoolcroft, 368). Those at the portage between the Wisconsin and Fox rivers have not been considered as comprehended within the limits either of the Green Bay or Prairie des Chiens settlements.

All of which is respectfully submitted,

WM. WOODBRIDGE, Sec. of Michigan.	} Commissioners.
HENRY B. BREVOORT, Reg. of the Land Office, Detroit.	
J. KEARSLEY, Rec. of the Land Office, Detroit.	

The following is part of the evidence appended to the Commissioners' Report:—

TERRITORY OF MICHIGAN, COUNTY OF CRAWFORD. SS.\*

Be it remembered that on this day personally appeared before me, Isaac Lee, a Justice of the Peace in and for said County, and agent duly appointed to ascertain the

\* Am. State Papers, vol. V. p. 284.

title to lands at Green Bay and Prairie du Chien, Denis Courtais, of said County, who, after being sworn according to law, deposeth and saith that he is fifty-two years old; that he has been a resident of Prairie du Chien twenty-nine years; that, according to the best information he has been able to obtain from the tradition of the inhabitants at Prairie du Chien, the old French Fort was burned during the second year of the revolutionary war; that he has no knowledge of any building or fence being erected on the same ground since that time, but that the land between the said fort and the hills or bluffs was occupied before and since the time that deponent arrived in this country; that Prairie du Chien has been formerly occupied much in the manner of an Indian village, the lands being alternately in common, and improved in detached parts as each should please, and this by the common consent of the villagers since deponent's arrival in the country; that he (deponent) has been uniformly told by the old French inhabitants of the Prairie, that it was bought and paid for by the French many years ago; that he has never heard any Indian make claim to said lands.

DENIS COURTOIS.

Sworn and subscribed before me, October 21, A.D. 1820,

ISAAC LEE, Justice of the Peace for  
Crawford County, and agent.

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TERRITORY OF MICHIGAN, COUNTY OF CRAWFORD. SS :\*

Be it remembered that on this day personally appeared before me, Isaac Lee, a Justice of the Peace in and for said County, and Agent duly appointed to ascertain the title to lands at Green Bay and Prairie du Chien,—Michael Brisbois, of said County, who, after being sworn according to law, deposeth and saith that he (this deponent) is sixty years of age; that he has been thirty-nine years in this country; that, from the best information he has been able to obtain, and from his own knowledge, Prairie du Chien, extending from the mouth of the River Wisconsin to the upper part of the prairie, has been occupied and cultivated in small improvements in virtue of sundry claims of French people, both before and since deponent's arrival in the country; that he (deponent) has never heard of any Indian claim to said tract, except that, about eighteen years ago, the French people became somewhat apprehensive as to their title, which fact being made known to the Indians, one of the first Chiefs of the Fox nation, named Nanponis, ratified at Kahokia, near St. Louis, an ancient sale of said prairie to the French; that in the year seventeen hundred and eighty one, Governor St. Clair bought the Island of Michilimickinac, Green Bay, and Prairie du Chien; that this deponent saw the papers relating to said purchase executed and folded up to be sent to Montreal or Quebec. Deponent was informed on his first arrival at this place, that it derived its name from a large family called Les Chiens who formerly resided here; that the same family, or the descendants, were here at the time of deponent's arrival, and were called Les Chiens.

M. BRISBOIS.

Sworn and subscribed before me, October 21, A.D. 1820,

ISAAC LEE, Justice of the Peace for  
Crawford County, and Agent.

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TERRITORY OF MICHIGAN, COUNTY OF CRAWFORD. SS :†

Be it remembered that on this day personally appeared before me, Isaac Lee, a Justice of the Peace in and for said County, and Agent duly appointed to ascertain the title to lands at Green Bay and Prairie du Chien,—Pierre La Pointe, of said county, who, after being sworn according to law, deposeth and saith that he is seventy years of age; that he has been

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\* Am. State Papers, vol. V. p. 284.

† Am. State Papers, vol. V. p. 284.



forty-four years in this country, of which period he has resided thirty-eight years at Prairie du Chien; that in the year 1781, this deponent was at Michilimackinac, and acted in the capacity of interpreter, at the treaty held by Governor Sinclair with the Indians for the purchase of the Island of Michilimackinac, Green Bay and Prairie du Chien; that during the time deponent has resided at the Prairie, he has never known the Indians to make claim to said tract of land as their property; that deponent was present at Prairie du Chien, and saw the goods delivered to the Indians, in payment for the said Prairie, by Bazil Gurd, Pierre Antya and Augustus Ange, according to the stipulations of the treaty with Governor Sinclair above mentioned.

his  
PIERRE X LA POINTE.  
mark.

Sworn and subscribed before me October 23rd, 1820.

ISAAC LEE, Justice of the Peace for  
Crawford County, and agent.

MICHILIMACKINAC, APRIL 13TH, 1703.\*

I have of this date given permission to Messrs. Longlade, père et fils, to live at the post of the La Baye, and do hereby order that no person may interrupt them in their voyage thither with their wives, children, servants and baggage.

GEO. ETHERINGTON, *Commandant*.†

# TRAVELS AND ADVENTURES IN CANADA AND THE INDIAN TERRITORIES BETWEEN THE YEARS 1760 AND 1776, IN TWO PARTS.

BY ALEXANDER HENRY, SENR., ESQ.

(Extracts.)

## PART I.

Fort Michilimackinac was built by order of the Governor-General of Canada, and garrisoned with a small number of militia, who, having families, soon became less soldiers than settlers. Most of those whom I found in the fort had originally served in the French army.

The fort stands on the south side of the strait which is between Lake Huron and Lake Michigan. It has an area of two acres, and is enclosed with pickets of cedar wood; and it is so near the water's edge, that, when the wind is in the west, the waves break against the stockade. On the bastions are two small pieces of brass English cannon, taken some years since by a party of Canadians who went on a plundering expedition against the posts of Hudson's Bay, which they reached by the route of the river Churchill.

Within the stockade are thirty houses, neat in their appearance, and tolerably commodious; and a church in which mass is celebrated by a Jesuit Missionary. The number of families may be nearly equal to the number of houses; and their subsistence is derived from the Indian traders who assemble here in their voyages to and from Montreal. Michilimackinac is a place of deposit, and point of departure, between the Upper countries and the Lower. Here the outfits are prepared for the countries of Lake Michigan and the Mississippi, Lake Superior and the North-West, and here the returns in furs are collected and embarked for Montreal.—(pp. 39, 40, ch. 4.)

\* An error. Should be 1763.

† Am. State Papers, vol. V. p. 284.

Relieved as I now imagined myself from all occasion of anxiety as to the treatment which I was to experience from the Indians, I assorted my goods, and hired Canadian interpreters and clerks, in whose care I was to send them into Lake Michigan and the River Saint Pierre, in the country of the Nadowessies ; into Lake Superior, among the Chipeways ; and to the grand portage for the north-west. Everything was ready for the departure, when new dangers sprung up and threatened to overwhelm me.

At the entrance of Lake Michigan, and at about twenty miles to the west of Fort Michilimackinac, is the village of L'Arbre Croche, inhabited by a band of Ottawas, boasting of two hundred and fifty fighting men. L'Arbre Croche is the seat of the Jesuit Mission of St. Ignace de Michilimackinac, and the people are partly baptized and partly not. The Missionary resides on a farm attached to the Mission and situated between the village and the fort, both of which are under his care.—(pp. 46, 47, ch. 4.)

#### A. D. 1761.

At noon, three hundred troops, of the sixtieth regiment, under the command of Lieutenant Leslie, marched into the fort ; and this arrival dissipated all our fears from whatever source derived. After a few days, detachments were sent into the Bay des Puans, by which is the route to the Mississippi, and at the mouth of the St. Joseph, which leads to the Illinois. The Indians, from all quarters, came to pay their respects to the commandant ; and the merchants dispatched their canoes, though it was now the middle of September, and therefore somewhat late in the season.—(p. 51, ch. 4.)

The village of L'Arbre Croche supplies, as I have said, the maize, or *Indian Corn* with which the canoes are victualled. This species of grain is prepared for use by boiling it in a strong lye, after which the husk may be easily removed ; and it is next mashed and dried. In this state it is soft and friable like rice. The allowance for each man on his voyage is a quart a day ; and a bushel with two pounds of prepared fat is reckoned to be a month's subsistence. No other allowance is made of any kind ; not even of salt ; and bread is never thought of. The men, nevertheless, are healthy, and capable of performing their heavy labour. This mode of victualling is essential to the trade which, being pursued at great distances, and in vessels so small as canoes, will not admit of other food. If the men were to be supplied with bread and pork, the canoes could not carry a sufficiency for six months ; and the ordinary duration of the voyage is not less than fourteen. The difficulty which would belong to an attempt to reconcile any other men than Canadians to this fare, seems to secure to them and their employés a monopoly of the fur trade.—(pp. 52, 53, ch. 5.)

On the 19th (May, 1762) I reached the Sault. Here was a stockaded fort in which under the French Government there was kept a small garrison, commanded by an officer who was called *the governor*, but was in fact a clerk, who managed the Indian trade here on government account. The houses were four in number, of which the first was the governor's, the second the interpreter's, and the other two, which were the smallest, had been used for barracks. The only family was that of M. Cadotte, the interpreter, whose wife was a Chipe-way.—(p. 58, ch. 5.)

Of the English traders that fell into the hands of the Indians at the capture of the fort, Mr. Tracy was the only one who lost his life. Mr. Ezekiel Solomons and Mr. Henry Bostwick were taken by the Ottawas, and, after the peace, carried down to Montreal and there ransomed. Of ninety troops, about seventy were killed ; the rest, together with those of the posts in the Bay des Puans and at the River St. Joseph, were also kept in safety by the Ottawas till the peace, and then either freely restored or ransomed at Montreal.—(pp. 105, 106, ch. 12.)

On the day following (*i.e.*, 9th August, 1764), that of the Treaty of Peace, Captain Howard was detached with two companies and three hundred Canadian Volunteers for Fort Michilimackinac, and I embarked at the same time.—(pp. 186, 187, ch. 23.)

#### PART II.

Under the French Government of Canada, the fur trade was subject to a variety of regulations, established and enforced by the royal authority ; and in 1765, the period at



which I began to prosecute anew, some remains of the ancient system were still preserved. No person could go into the countries lying north-westward of Detroit unless furnished with a license, and the exclusive trade of particular districts was capable of being enjoyed in virtue of grants from military commanders.

The exclusive trade of Lake Superior was given to myself by the Commandant of Fort Michilimackinac, and to prosecute it I purchased goods which I found at this post, at twelve months' credit. My stock was the freight of four canoes, and I took it at the price of ten thousand pounds weight of good and merchantable beaver. It is in beaver that accounts are kept at Michilimackinac; but in defect of this article, other furs and skins are accepted in payments, being first reduced into their value in beaver. Beaver was at this time at the price of two shillings and sixpence per pound Michilimackinac currency; other skins, six shillings each; marten, at one shilling and sixpence, and others in proportion.

To carry the goods to my wintering ground in Lake Superior I engaged twelve men at two hundred and fifty livres, of the same currency, each; that is a hundred pounds weight of beaver. For provisions, I purchased fifty bushels of maize, at ten pounds of beaver per bushel. At this place specie was so wholly out of the question that in going to a cantine you took with you a marten's skin to pay your reckoning.—(pp. 191–2–3, ch. 1.)

#### AUGUST, 1765.

On my arrival at Chagouemig, I found fifty lodges of Indians there. These people were almost naked, their trade having been interrupted first by the English invasion of Canada, and next by Pontiac's war.

Adding the Indians at Chagouemig to those which I had brought with me, I had now a hundred families, to all of whom I was required to advance goods on credit. At a council which I was invited to attend, the men declared that unless their demands were complied with, their wives and children would perish; for that there were neither ammunition nor clothing left among them. Under these circumstances I saw myself obliged to distribute goods to the amount of three thousand beaver skins. This done, the Indians went on their hunt at the distance of a hundred leagues. A clerk acting as my agent accompanied them to Fond du Lac, taking with him two loaded canoes. Meanwhile, at the expense of six days' labour, I was provided with a very comfortable house for my winter's residence.—(pp. 195–6, ch. 1.)

#### A.D. 1767.

On reaching the trading post (Michipicoton) which was an old one of French establishment, I found ten lodges of Indians. These were *Gens de Terres* or *O'Fimitish Ininiwae*, of which nation I have already had occasion to speak. It is scattered over all the country between the Gulf of St. Lawrence and *Lake Arabathrow*, and between Lake Superior and Hudson's Bay.—(p. 214, ch. 4.)

On the twentieth day of the month (April 1768) the first party of Indians came in from their winter's hunt. During the season some of them had visited one of the factories of the Hudson's Bay Company. Within a few days following, I had the satisfaction of seeing all those to whom I had advanced goods, return. Out of two thousand skins, which was the amount of my outstanding debts, not thirty remained unpaid; and even the trivial loss which I did suffer was occasioned by the death of one of the Indians for whom his family brought, as they said, all the skins of which he died possessed, and offered to pay the rest from among themselves. His remains, they observed, would not be able to enjoy peace, while his name remained in my books, and his debts were left unsatisfied.—(pp. 218, 219, ch. 5.)

On the 10th day of June, 1775, I left the Sault for the north-west with goods and provisions to the value of three thousand pounds sterling, on board twelve small canoes, and four larger ones. The provisions made the chief bulk of the cargo; no further sup-

\*Carver says by the Michipicoton.

ply being obtainable till we should have advanced far into the country. Each small canoe was navigated by three men and each larger one by four.

It was by the River Pijitic\* that the French ascended in 1750, when they plundered one of the factories in Hudson's Bay, and carried off the two small pieces of brass cannon, which fell again into the hands of the English at Michilimakinac. *On the river are a band of Wood Indians, who are sometimes troublesome to the traders passing.*—(pp. 236–7–8, ch. 8.)

By this river (Nipigon) the French carried on a considerable trade with the Northern Indians. They had a fort or trading-house at its mouth, and annually drew from it a hundred packs of beaver of a quality more in esteem than that from the north-west. They had another trading-house at Caministiquia. As we proceed north-west along the lake, the mountains recede widely from the beach.—(p. 238.)

#### 1ST AUGUST, 1775.

The Lake of the Woods is thirty-six leagues long. On the west side is an old French fort or trading-house formerly frequented by numerous bands of Chipeways, but these have since been almost entirely destroyed by the Nadowessies.—(p. 244, ch. 8.)

#### 18TH AUGUST, 1775.

I kept the north side of the lake (Winipegou) and had not proceeded far before I was joined by Mr. Pond, a trader of some celebrity in the north-west.—(p. 252, ch. 9.)

On the seventh September we were overtaken by Messrs. Joseph and Thomas Frobisher and Mr. Patterson. On the 20th we crossed the bay together, composing a fleet of 30 canoes and 130 men.

On the 1st October, we gained the mouth of the River de Bourbon, Pasquayoh, or Sascatchiwaïne, and proceeded to ascend the stream.—(p. 253, ch. 9.)

At the north end (Lake Bourbon) there was, in the French time, a fort or trading-house called Fort de Bourbon, and built by M. de St. Pierre, a French officer, who was the first adventurer into these parts of the country.—(p. 255, ch. 9.)\*

On the 26th (October, 1775), we reached Cumberland House, one of the factories of Hudson's Bay Company, seated on Sturgeon lake in about 54° north latitude and 102° longitude west from Greenwich. This house had been built the year before by Mr. Hearne, who was now absent on his well-known journey of discovery. We found it garrisoned by Highlanders from the Orkney Islands, and under the command of a Mr. Cockings, by whom, though unwelcome guests, we were treated with much civility. The design in building this house was to prevent the Indians from dealing with the Canadian merchants, and to induce them to go to Hudson's Bay. . . . . (p. 259.)

At Cumberland House the canoes separated; *M. Cadotte* going with four to Fort des Prairies; Mr. Pond, with two, to Fort Dauphin, and others proceeding on still different routes; Messrs. Frobisher retaining six, and myself four; and we resolved on joining our stock and wintering together. We steered for the River Churchill, or Missinipi, to the east of Beaver Lake, or Lake aux Castors. . . . . (p. 260.)

#### 1ST NOVEMBER, 1775.

Our first object was to procure food. We had only three days' stock remaining, and we were forty-three persons in number. Our forty men were divided into three parties, of which two were detached to the River aux Castors, on which the ice was strong enough to allow of setting the nets in the manner heretofore described. The third party was employed in building our house or fort, and in this, within ten days, we saw ourselves commodiously lodged. Indeed, we have almost built a village, or, in soberer terms, we had raised buildings round a quadrangle such as really assumed, in the wilds which compassed it, a formidable appearance. In front was the house designed for Messrs. Frobisher and

\* This is a mistake; see ante, p. 73, fourth line from foot.



myself, and the men had four houses, of which one was placed on each side and two in the rear.—(p. 261.)

Left fort on Beaver Lake 1st January, 1776, attended by two men, and provided with dried meat and frozen fish. Arrived at Cumberland House on the 4th. *Left there for Fort of Praries on 9th.* No trace of anything human presented itself on our road *except that we saw the old wintering ground of Mr. Finlay, who had left it some years before, and was now stationed at Fort des Praries.* This fort was the stage we had to make before we could enter the praries or plains, and on examining our provisions we found only sufficient for five days, while, even at the swiftest rate we had travelled, a journey of twelve days was before us.—(p. 268.)

At Fort des Praries, I remained several days, hospitably entertained by my friends, who covered their table with the tongue and marrow of wild bulls. The quantity of provisions I found collected here exceeded everything of which I had previously formed a notion. In one heap I saw fifty ton of beef, so fat that the men could scarcely find a sufficiency of lean.—(pp. 272, 273, ch. 10.)

1776.—Embarked from Beaver Lake for Lake Athabasca—distance, 450 miles. Henry Frobisher, six Canadians, one squaw.—(pp. 319-20.)

Fort of the Praries, as already intimated, is built on the margin of the Pasquayoh or Sascatchiwaine, which river is here two hundred yards across, and flows at the depth of thirty feet below the level of its banks. The fort has an area of about one acre, which is enclosed by a good stockade, though formed only of poplar or aspenwood, such as the country affords. It has two gates, which are carefully shut every evening, and has usually from fifty to eighty men for its defence.

Four different interests were struggling for the Indian Trade of the Sascatchiwaine, but fortunately they had this year agreed to join their stock, and, when the season was over, to divide the skins and meat.—(p. 314.)

On the 7th (April, 1776) we left Cumberland House; and on the 9th, in the morning, we reached our fort on Beaver Lake, where I had the pleasure of finding my friends well....

On the 12th, Mr. Thomas Frobisher with six men, was despatched to River Churchill, where he was to prepare a fort, and inform such Indians as he might see on their way to Hudson's Bay, of the approaching arrival of his partners.—(p. 317, ch. 15.)

JOURNAL OF ALEXANDER HENRY, JUNR., TO LAKE SUPERIOR, RED RIVER, ASSINIBOINE, ROCKY MOUNTAINS, COLUMBIA, AND THE PACIFIC—1799 TO 1811—TO ESTABLISH THE FUR TRADE.

(Extracts.)

1800.

*Monday, 4th August.*—At day-brake we embarked and passed the old Hudson's B. C. establishment, which has now been abandoned for several years.\*

*Tuesday, 19th August.*—We began early this morning to unpack the goods, to assort and divide them, the one-half being intended for Portage la Prairie, and the remainder for the Red River. This employed us the greatest part of the day, settling the men, delivering the baggages, and attending to the Indians, who were still drinking. At twelve o'clock, five Hudson Bay Company's boats from Albany Factory or rather Martin's Falls arrived here,—Mr. Robert Goadwin, Master, assisted by a Mr. Brown,—that put ashore and remained with us until four o'clock, when they embarked and proceeded up the Assiniboine River. Their boats carry about forty-five packages of unequal weight, but may be said to average eighty pounds each, conducted by four oars and a steersman; they are neatly built and painted, and sharp at both ends.

Upon this spot in the time of the French, there was a trading establishment, traces of which are still to be seen. Their chimneys and cellars stood. I am also informed

\* Below Monitore Rapids on Rivière Noire, near the entrance of the Lake of the Woods.

that there was at the same time a chapel and a missionary here for several years, but I don't believe they ever made much progress towards civilizing the nations.

Brigade of canoes and boats overtook and camped with us, with Mr. John McDonell, one of the proprietors of the North-West Company. He proposes to winter himself at Rivière Qu'Appelle.

*Wednesday, 20th.*—Early this morning Mr. McDonell with his brigade left us. . . .

*Friday, 5th September.*—Early this morning I sent off the Indians ahead on discoveries. We came to the Paubian River and crossed over to the old fort which was built in 1797-8 by Mr. Chollailler,\* opposite to the entrance of the river. On the east side of the Red River is the remains of an old fort built by Mr. Grant some years ago, and was the first establishment ever built in the Red River.

(1806.)

[The whole of this year appears to have been spent at the old settlement of Kaministiquia, on the north-west of Lake Superior. . . .

At this period, scattered around the country, was a population of about 80,000, which he has noted down as follows:—]

DEPARTMENTS.	WHITES.			INDIANS.		
	Men.	Women.	Children.	Men.	Women.	Children.
Athabasca.....	208	48	84	55	38	66
Athabasca River.....	37	12	15	...	..	...
English River .....	78	40	63	211	380	1,100
Rat River .....	25	7	10	70	90	150
Fort des Prairies.....	136	59	103	4,823	13,632	45,906†
Fort Dauphin .....	45	22	18	19	17	31
Upper Red River .....	65	52	82	1,170	1,200	2,500
Lower Red River .....	56	52	68	160	190	250
Lake Winnipéc .....	88	11	15	90	111	194
Lac La Pluie .....	46	10	10	103	141	195
Fond du Lac .....	128	29	50	449	784	1,944
Nipigon .....	90	20	20	238	283	299
Kam. Mille Lac } .....	62	16	36	70	84	178
Lac des Chenes. }						
Pic .....	16	2	3	44	45	58
Traders.....	520	37	31	...	...	...
Total .....	1,610 (?)	405 (?)	600 (?)	7,502	16,995	52,871

(1807.)

*August 31st.*— . . . This season we were troubled by an augmentation of freemen from Canada, etc.; their total numbers now in this river amount to forty-five men. More worthless fellows could not be found in the North-West. . . .

*September 14th.*—I sent off a boat for above, Wm. Henry, master, with T. Veaudrie,‡ interpreter, and seven men, to build at the Grande Fourche.

\* Chabvilli.

† Evidently an error in his statement.

‡ Verendrye.



(1808.)

*August 22nd.*—We passed old Fort Bourbon, near which we entered one of the channels of the Saskatchewan.

————— *24th.*—At eleven o'clock we entered the main channel of the Saskatchewan, and soon after we arrived at the Opas. This place may be said to be the first spot of real dry land we have seen since we left Lac Bourbon. The little river of the Montogedu Pas comes in here on the south side. Formerly the French had an establishment at this spot, some trails of which are still to be seen. It was also a place of general rendezvous for the different tribes of Indians previous to the small-pox. . . . .

————— *25th.*— . . . . . We came to the entrance of Sturgeon Lake, where we put ashore on an island whose black, rocky shore gave us every reason to suppose we have our feet once more on a spot of terra ferma. Upon this island our northern bound brigades generally unload, and proceed to Cumberland House for their supply of provisions, which having brought, they loaded and proceeded along the lake in a northern direction to the entrance of Rivière Matine, about twelve leagues from this; then, up this river, and through a succession of lakes and rivers to their respective destinations, some even to the Columbia on the westward, and others to the McKenzie River to the north-west. It is from this vast extent of country from which the North-West Company may be said to draw their treasures. It is true, profits arise from the trade in other parts of the country to the eastward, but nothing in comparison to what we obtain from the Athabasca country.

*Tuesday, 30th August.*— . . . . . At 12 o'clock we passed the old establishment at the *Nepawee*, which stands on the south side of the river (Saskatchewan).

*Wednesday, 31st August.*—At 6 o'clock we encamped at the spot where the French formerly had an establishment, called Fort St. Louis, built by Luc La Corne.\* It stands in a low bottom. South side of this place, some years ago, were to be seen agricultural instrument and remains of carriage wheels. Their road to the open plains is still to be seen winding up a valley on the south side.

*Thursday, September 1st.*—At 4 o'clock we were again upon the water, and at 9 o'clock we arrived at an old establishment of our own, which has been abandoned since 1805, called Fort St. Louis, from its proximity to the old French fort below.

*Saturday, 3rd September.*—At 2 o'clock we passed Old Fort Providence, which stands upon an island, and soon after we came to the Surgeon Fort, where there still appeared the remains of several old establishments. . . . . We passed those ruins, and soon after came to the entrance of the Setting River, or Pucketowasipi, where we found a camp of twenty leather tents of Crees, a few Saulteux and two Freemen on the south side. I crossed over and camped upon the north side, upon a beautiful small meadow, on the banks of the river, where there was every appearance of a range of forts having stood many years ago. . . . . Among them were several Mongrels, who were very troublesome during the night. I was frequently at the point of chastising one of them in particular for his insolence. I had always observed in this country that whenever any of those people are living among the Indians and have abandoned themselves entirely to the savage life, they are the worst of Indians, given to all kinds of roguery, and incite the natives to be more troublesome than they would otherwise be.

*Sunday, 4th Sept.*—Having finished my business with those troublesome fellows, and purchased three horses from them and hired one of those rascals as hunter, to go up in company with us, I packed up the skins I had traded and gave them in charge of the freeman, to be delivered at my house at the South branch, which is only one day's journey

\* See Bougainville's Memoir.

from this across by land. At seven o'clock I sent the hunter and my guide off by land, on the north side with the horses, as the country above will not admit of travelling by horses near the river, being covered with pine and brush wood, and overrun by swamps and marshgrasses. . . . . At two o'clock we passed Hudson's house on the north side, an old establishment of the Hudson's Bay Company, and at sunset we arrived at *Les Ecores Jaunes*, which is upon the north side. Here we found a camp of ten Crees and a few Saulteux and Freeman, who had a number of horses belonging to them. I gave them liquor for some provisions they gave me, and I purchased three horses from them. They were not so troublesome as those we left this morning. . . . .

*Wednesday, 7th Sept.*— . . . . . On our coming to the canoes we met a Freeman from above who had been sent down in a small canoe to inform us that Crees having fled from above had assembled at the Battle River, and had determined to prevent us from passing upwards, to keep the Slave Indians from receiving any supplies from us in arms and ammunition, as they were apprehensive that a serious war would be the consequence. . . . .

*Thursday, 8th Sept.*— . . . . . Passed the old Fort of Montague D'Aigle, which is now only a heap of ruins, which lays in a low bottom on the north side of the river. It was at this place where the traders who then wintered here and the Crees had a battle in the spring of the year of 1780, when one of the traders was killed by a Canadian and one Cree. The traders were obliged to fly, and abandon their property to the mercy of the Indians, who pillaged and destroyed the major part. . . . .

*Sunday, 11th Sept.*— . . . . . Our men encamped near the old Fort Brulé, which has been abandoned for some years past. It was built on a Presqu'isle on the north side. At this place the H. B. Co. servants were plundered by the Fall Indians, and narrowly escaped being all murdered. The same attempt was made upon the N. W. Co. establishment, but by the intrepid behaviour of one of the clerks, they were repulsed, and obliged to retire with the booty they had got from the H. B. Co. house. . . . . (p. 757.)

*Tuesday, 13th Sept.*— . . . . . At sun-set arrived in sight of our establishment of Fort Vermillion, which lays in a long flat bottom of meadow directly opposite the Vermillion River, on the south side, where we observed a large camp of Slave Indians, who, on observing us coming down the hills, began to hoope and halloo, and appeared rejoiced at seeing. We passed the H. B. Co. fort, and soon after entered our own, where all hands were happy to see us. . . . . Soon after my arrival I was visited by our H. B. neighbours, MM. Hallette\* and Longmore, who were anxious to hear the news from Europe, having been deprived that satisfaction since this time last year. Nothing extraordinary had occurred here in the course of the summer, further than the disturbance between the Slave Indians and the Crees; the former were still exasperated against the treacherous behaviour of the latter, and threatened to be revenged.

\* \* \* \* \*

The Big Bellies are far superior to the Slave Indians and fully equal to the Mandanes. They are a most audacious and turbulent race, and have repeatedly attempted to destroy and massacre us all. The first glaring attempt was made at old Fort Brulé, in 1793, where they pillaged the Hudson Bay Company fort instantly, and were proceeding to commit a similar outrage upon that of the North-West Company, but through the spirited conduct of one of the clerks they were repulsed, and fled with the booty they had already acquired from the Hudson Bay Company Establishment. The summer following they assembled and made a formal attack upon the Hudson Bay Company Fort at the South Branch, which they destroyed, massacred and took away everything they could find, leaving the place in ashes; at the same time they attempted to destroy the North-West Company's fort, which stood near that of the Hudson Bay Company, but meeting with an unexpected resistance they retired with the loss of one of their principal chiefs, and some others killed and wounded, since which period they have been more peaceable.

\* Allet.



(1809.)

*Friday, 20th October.*— . . . . My men finished repairing their houses, and this evening every one was entered and settled for the winter, viz. :—

	Men	Women	Children.
No. 1. Parrenteau (Parenteau).....	1	1	5
Perain (Périn).....	1	1	1
Clément.....	1	1	2
Dubois.....	1	1	1
			17 persons.
No. 2. Cardinale (Cardinal).....	1	1	5
La Doucure (Ladouceur).....	1	1	0
Ottowa.....	1	1	3
Pichette (Pichet) .....	1	0	0
			15 persons
No. 3. Crevier.....	1	1	1
Thyfaut (Tifault).....	1	1	1
Dument (Dumont).....	2	1	4
Le Jeunesse (La Jeunesse) .....	1	0	0
			14 persons.
No. 4. Guillion .....	1	1	0
Durand.....	1	1	1
Carrière .....	1	1	2
Martelle (Martel).....	1	1	4
La Blanc's Wife (Leblanc).....	0	1	2
			18 persons.
No. 5. Faille (Faye ?).....	1	1	4
La Puire .....	1	1	3
Susscier (Saucier) (Lussier) .....	2	1	1
Gagnion (Gagnon) .....	1	1	0
			17 persons.
No. 6. Parririan (Parisien ?) .....	1	1	6
Languedoc (Languetean) .....	1	1	1
Croite (Crète ?) .....	1	1	1
Beauvois (Beauvais) .....	1	0	0
			15 persons.
No. 7. Jerome.....	1	0	4
Rocque.....	1	1	1
Rehelle (Riel).....	1	0	0
Fleming .....	1	0	0
			10 persons.
No. 8. Hamelle (Hamel). .....	1	0	0
			1 person.
No. 9. Mr. Small.....	1	0	0
			1 person.
No. 10. Self.....	1	1	3
			5 persons.
• Tent. F. Deschamp .....	1	1	4
F. Deschamp .....	1	1	1
			9 persons.
Tent. Martin .....	1	1	6
			8 persons.
	36	27	67
			130 persons.

*Tuesday, 24th.*—I invited the Hudson's Bay Company agents to breakfast, and settled with them concerning our trade with the natives for the winter. I determined upon taking a jaunt up to Fort Augustus, took inventories, etc., and packed up the property for that purpose, that nothing might be given out in my absence.

*Friday, 27th.*— . . . . Passed the ruins of old Fort George, the chimnies of which are now only to be seen. At five o'clock it began to snow and blow hard. The country here is more level than this morning. At dark we came to the Dog Rump River, which having crossed, we stopped for the night. This river comes from the North-West and falls into the Saskatchewan, which is about two leagues south from us. The Moose River, where my horse-keeper is tented, takes its rise in the hills of that name, and empties itself into the Saskatchewan also, below Fort George.

*Monday, 30th.*—This may be said to be the final termination of the plains in this direction to the west, on the north side of the Saskatchewan River. We now meet a long string of Indians on their march, mostly of them intoxicated; they wished us to stop, and called loudly for rum, but we continued on until we came to the very entrance of the strong wood, where the trade brought us upon the bank, in sight of the river, between which and us lay a flat bottom, on which the two establishments presented themselves at our feet. The hill was steep and slippery. At 4 o'clock we entered the fort, after a tedious but expeditious journey from Fort Vermillion to Fort Augustus.

*Thursday, 31st.*—The Blood Indians we met appear much more troublesome here at present than they were when at Fort Vermillion, in September last. The Saskatchewan River is only 15 yards wide; the current is very swift, and bound in by high banks at no great distance from each other; the flat bottoms are not so extensive as below, but the banks are more steep and elevated, and covered with wood. . . . . The ice is generally from ten to fifteen days later thawing here than at Fort Vermillion.

*Wednesday, 1st November.*—Early, the Blood Indians were crossed over and began to trade. Forty principal men at our Fort (Augustus), and the sixty others at the H. B.

*Tuesday, 7th.*—Here (Moose Creek) we had proposed sleeping, but an old woman arriving from the fort brought us news that all the Assiniboines and Crees had declared war upon us, and were every moment expected to arrive at the fort, as they were coming up on both sides of the river, and determined to go up to Fort Augustus also, and sweep the river clear of all the whites they could find, and take every horse that was belonging to us.

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EXTRACTS FROM THE DIFFERENT COMMISSIONS APPOINTING CAPTAINS-GENERAL AND GOVERNORS-IN-CHIEF, &c., IN SO FAR AS THE SAME RELATE TO THE BOUNDARY LINES.

21ST NOVEMBER, 1763.

JAMES MURRAY, ESQ.—*Captain-General and Governor-in-Chief of the Province of Quebec.\**

(Printed; see ante, p. 51.)

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12TH APRIL, 1768.

SIR GUY CARLETON—*Captain-General and Governor-in-Chief of the Province of Quebec.†*

Our Province of Quebec in America, bounded on the Labrador coast by the River Saint John, and from thence by a line drawn from the head of that river through the

\* Lib. A (I), Imperial Commissions, Fol. 1.

† Lib. C (3), Imperial Commissions, Fol. 33.



Lake St. John to the south end of Lake Nipissin, from whence the said line, crossing the River Saint Lawrence and the Lake Champlain in forty-five degrees northern latitude, passes along the high lands which divide the rivers that empty themselves into the said River Saint Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Roziers, and from thence crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River of St. John, together with all the rights, members, and appurtenances, whatsoever, thereto belonging.

27TH DECEMBER, 1774.

SIR GUY CARLETON—*Captain-General and Governor-in-Chief of the Province of Quebec.\**

(Incorrectly printed, and dated 1775, at ante, p. 52.)

And further know you, that we, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Guy Carleton, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said Guy Carleton, to be our Captain-General and Governor-in-Chief in and over our Province of Quebec, in America, comprehending all our Territories, Islands and Countries in North America, bounded on the south by a line from the Bay of Chaleurs, along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until in the same latitude, it meets with the River Saint Lawrence; from thence up the eastern bank of the said river to the Lake Ontario, thence through the Lake Ontario, and the river commonly called Niagara, and thence along by the eastern and south-eastern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected, and from thence along the said northern and western boundaries of the said Province, until the said western boundary strikes the Ohio; but in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania, and thence by a right line to the said north-western angle of the said Province, and thence along the western boundary of the said Province until it strikes the River Ohio, and along the bank of the said river westward to the banks of Mississippi, and northward along the eastern bank of the said river to the southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay, and also all such Territories, Islands and Countries which have, since the tenth day of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland as aforesaid, together with all the rights, members and appurtenances whatsoever thereunto belonging.

18TH SEPTEMBER, 1777.

SIR FREDERICK HALDIMAND—*Captain-General and Governor-in-Chief of the Province of Quebec.†*

Our Province of Quebec in America, comprehending all our territories, islands, and countries in North America, bounded on the south by a line from the Bay of Chaleurs, along the Highlands which divide the rivers that empty themselves in the River Saint Lawrence, the from those which fall into the sea, to a point in forty-five degrees of northern latitude on

\* Lib. B. (2), Imperial Commissions, Fol. 1.

† Lib. B. (2), Imperial Commissions, Fol. 24.

eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until in the same latitude it meets with the River Saint Lawrence, from thence up the eastern bank of the said river to the Lake Ontario, thence through the Lake Ontario and the river commonly called Niagara, and thence along by the eastern and southern bank of Lake Erie, following the said bank until the same shall be intersected by the northern boundary granted by the Charter of the Province of Pennsylvania, in case the same shall be so intersected, and from thence along the said northern and western boundaries of the said Province until the said western boundary strikes the Ohio, but in case the said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania, and thence by a right line to the said north-western angle of the said Province, and thence along the western boundary of the said Province until it strikes the River Ohio, and along the bank of the said river westward to the banks of the Mississippi, and northward along the eastern bank of the said river to the southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay, and also all such Territories, Islands, and Countries which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, together with all the rights, members and appurtenances whatsoever thereunto belonging.

22nd APRIL, 1786.

SIR GUY CARLETON, K.B., (Lord Dorchester)—*Captain-General and Governor-in-Chief of the Province of Quebec.\**

(Incorrectly printed at ante, p. 53.)

And further know ye that we, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Sir Guy Carleton, of our especial grace, certain knowledge, and mere motion, have thought fit to appoint you, the said Sir Guy Carleton, to be our Captain-General and Governor-in-Chief in and over our Province of Quebec in America, comprehending all our Territories, Islands, and Countries in North America; bounded on the south by a line from the Bay of Chaleurs, along the High Lands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the Atlantic Ocean, to the north-westmost head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Catarqui; thence along the middle of the said river into Lake Ontario; through the middle of said lake until it strikes the communication by water between that lake and Lake Erie; through the middle of said lake until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior northward of the Isles Royal and Phillipeaux to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; and northward to the southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay; and also all such Territories, Islands, and Countries which have, since the tenth of February, one thousand seven hundred and sixty three, been made part of the government of Newfoundland, together with all the rights, members, and appurtenances whatsoever, thereunto belonging.

\* Lib. B (2), Imperial Commissions, Fol. 47.



12TH SEPTEMBER, 1791.

GUY, LORD DORCHESTER—*Captain-General and Governor-in-Chief of the Provinces of Upper Canada and Lower Canada.*

Greeting :

WHEREAS, Wee did by our Letters Patent under Our Great Seal of Great Britain, bearing date the Twenty-Second day of April, in the Twenty-sixth year of our reign, constitute and appoint you, Guy, Lord Dorchester (then Sir Guy Carleton), to be Our Captain-General and Governor-in-Chief in and over Our Province of Quebec in America, comprehending all Our Territories, Islands and Countries, in North America, then bounded as in Our said recited Letters Patent was mentioned and expressed.

Now Know Ye, that wee have revoked determined, and by these Presents do revoke and determine, the said recited Letters Patent, and every clause, article or thing therein contained.

And Whereas, we have thought fit by Our order made in Our Privy Council on the Nineteenth day of August, one thousand seven hundred and ninety-one, to divide our said Province of Quebec into two separate provinces, to be called the Province of Upper Canada and the Province of Lower Canada, by a line to commence at a stone boundary on the North Bank of the Lake St. Francis at the Cove west of the Point au Baudet in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of North thirty-four degrees West to the westernmost angle of the said Seigneurie of New Longueuil ; thence along the North-western Boundary of the Seigneurie of Vaudreuil, running North twenty-five degrees East, until it strikes the Ottawas River, to ascend the said river into the Lake Tommiscanning, and from the head of the said lake by a line drawn due north until it strikes the Boundary line of Hudson's Bay, the Province of Upper Canada, to comprehends all such lands, territories and islands, lying to the Westward of the said line of division, as were part of Our said Province of Quebec, and the Province of Lower Canada to comprehend all such lands, territories and islands lying to the Eastward of the said line of division, as were part of Our said Province of Quebec.

And Whereas, by an Act passed in the present year of Our Reign, intituled " An Act "to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, " intituled ' An Act for making more effectual provision for the Government of Quebec, " in North America, and to make further provision for the Government of the said " Province, " further provision is thereby made for the good Government and prosperity of Our said Provinces of Upper Canada and Lower Canada.

Further, Know Ye that Wee, reposing especial trust and confidence in the prudence, courage and loyalty of you, the said Guy, Lord Dorchester, of Our especial Grace, certain knowledge and mere motion have thought fit to constitute and appoint you, the said Guy, Lord Dorchester, to be our Captain-General and Governor-in-Chief of our said Province of Upper Canada, and of Our said Province of Lower Canada, respectively, bounded as hereinbefore described.

15TH DECEMBER, 1796.

ROBERT PRESCOTT, Esq.—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.\**

Our Province of Upper Canada and of our Province of Lower Canada, respectively, bounded by a line to commence at a Stone boundary on the north bank of the Lake Saint Francis at the Cove west of Pointe au Baudet in the limit between the Township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north, thirty-four degrees west, to the westernmost angle of the said Seigneurie of New Longueuil,

\* Lib. E. (5), Imperial Commissions, Fol. 40.

thence along the north-western boundary of the Seigneurie of Vaudreuil, running north twenty-five degrees east until it strikes the Ottawas River, to ascend the said river into the Lake Tomiscanning and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay—the Province of Upper Canada to comprehend all such lands, territories, and islands lying to the westward of the said line of division as were part of our Province of Quebec, and the Province of Lower Canada to comprehend all such lands, territories, and islands lying to the eastward of the said line of division as were part of our said Province of Quebec.

[The following nine Commissions contain Boundary Line descriptions similar to the one last written.]

29TH AUGUST, 1807.

SIR JAMES HENRY CRAIG—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.\**

21ST OCTOBER, 1811.

SIR GEORGE PREVOST—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.†*

28TH DECEMBER, 1814.

GORDON DRUMMOND, ESQ.—*Administrator of the Government of the Provinces of Upper and Lower Canada.‡*

25TH MARCH, 1816.

SIR JOHN COAPE SHERBROOKE—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.§*

8TH MAY, 1818.

CHARLES, DUKE OF RICHMOND—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.||*

12TH APRIL, 1820.

GEORGE, EARL OF DALHOUSIE—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.¶*

\*Lib. E. (5), Imperial Commissions, Fol. 89.

†Lib. E. (5), Imperial Commissions, Fol. 133.

‡Lib. E. (5), Imperial Commissions, Fol. 157.

§Lib. E. (5), Imperial Commissions, Fol. 189.

||Lib. E. (5), Imperial Commissions, Fol. 228.

¶Lib. E. (5), Imperial Commissions, Fol. 255.



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24TH NOVEMBER, 1830.

MATTHEW, LORD AYLMER—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.\**

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24TH NOVEMBER, 1830.

MATTHEW, LORD AYLMER—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.†*

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1ST JULY, 1835.

ARCHIBALD, EARL OF GOSFORD—*Captain-General and Governor-in-Chief of the Provinces of Upper and Lower Canada.‡*

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30TH MARCH, 1838.

JOHN GEORGE, EARL OF DURHAM—*Captain-General and Governor-in-Chief of the Province of Lower Canada.§*

Our said Province of Lower Canada, the said Province being bounded by the adjacent Province of Upper Canada and the boundary line between the said Provinces, commencing at a stone boundary on the north bank of the Lake St. Francis, at the Cove west of the Point au Beaudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north, thirty-four degrees west, to the westernmost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running north, twenty-five degrees east, until it strikes the Ottawas River, to ascend the said river into the Lake Temiscanining; and which said Province of Lower Canada is also bounded by a line drawn due north from the head of the said lake until it strikes the shore of Hudson's Bay.

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[The two following Commissions contain Boundary Line descriptions similar to the one last written.]

13TH DECEMBER, 1838.

SIR JOHN COLBORNE—*Captain-General and Governor-in-Chief of the Province of Lower Canada.||*

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6TH SEPTEMBER, 1839.

CHARLES POULETT THOMSON, ESQ.—*Captain-General and Governor-in-Chief of the Province of Lower Canada.¶*

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\* Lib. E (5), Imperial Commissions, Fol. 296.

† Lib. F (6), Imperial Commissions, Fol. 47.

‡ Lib. F (6), Imperial Commissions, Fol. 108.

§ Lib. F (6), Imperial Commissions, Fol. 132.

|| Lib. F (6) Imperial Commissions, Fol. 150.

¶ Lib. F (6), Imperial Commissions, fol. 171.

29TH AUGUST, 1840.

CHARLES, BARON SYDENHAM—*Captain-General and Governor-in-Chief of the Province of Canada.\**

Our Province of Canada, comprising Upper Canada and Lower Canada, the former being bounded on the east by a line dividing it from Lower Canada, commencing at a stone boundary on the north bank of Lake Saint Francis, at the cove west of the Point au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running north twenty-five degrees east until it strikes the Ottawa River, to ascend the said river into the Lake Temiscaming, by a line drawn due north from the head of the said lake until it reaches the shore of Hudson's Bay, and being bounded on the south, beginning at the said stone boundary between Lancaster and Longueuil, by the Lake Saint Francis, the River Saint Lawrence, the Lake of the Thousand Islands, Lake Ontario, the River Niagara, which falls into Lake Erie, and along the middle of that lake; on the west by the Channel of Detroit, Lake Saint Clair, up the River St. Clair, Lake Huron, the west shore of Drummond Island, that of Saint Joseph and Sugar Island; thence into Lake Superior.

[The two following commissions contain Boundary Line descriptions similar to the one last written.]

24TH FEBRUARY, 1843.

SIR CHARLES THEOPHILUS METCALFE—*Captain-General and Governor-in-Chief of the Province of Canada.†*

16TH MARCH, 1846.

CHARLES MURRAY, EARL CATHCART—*Captain-General and Governor-in-Chief of the Province of Canada.‡*

1ST OCTOBER, 1846.

JAMES, EARL OF ELGIN AND KINCARDINE—*Captain-General and Governor-in-Chief of the Province of Canada.§*

Our said Province of Canada, comprising Upper Canada and Lower Canada, the former being bounded on the east by the line dividing it from Lower Canada, commencing at a stone boundary on the north bank of the lake St. Francis, at the cove west of the Pointe au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north, 34 degrees west, to the westernmost angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil, running north 25 degrees east until it strikes the Ottawas River, to ascend the said river into the Lake Temiscaming, by a line drawn due north from the head of the said lake until it reaches the shore of Hudson's Bay; and being bounded on the south, beginning

\* Lib. F. (6), Imperial Commissions, fol. 188.

† Lib. A.A. Commissions, fol. 405.

‡ Lib. A.S. Commissions, &c., fol. 141.

§ Lib. A.S. Commissions, &c., fol. 207.



at the said stone boundary between Lancaster and Longeul, by the Lake St. Francis, the River St. Lawrence, the Lake of the Thousand Islands, Lake Ontario, the River Niagara, Lake Erie, and along the middle of that lake; on the west by the Channel of Detroit, Lake St. Clair, up the River St. Clair, Lake Huron, the west shore of Drummond Island, that of St. Joseph and Sugar Island, thence into Lake Superior. The said Province of Lower Canada being bounded by the adjacent Province of Upper Canada, and the boundary line between the said two Provinces, commencing at a stone boundary on the north bank of the Lake St. Francis, at the cove west of the Pointe au Baudet, in the limit between the Township of Lancaster and the Seigneurie of New Longeul, running along the said limit in the direction of north 34 degrees west, to the westernmost angle of the said Seigneurie of New Longeul, thence along the north-western boundary of the Seigneurie of Vandreuil, running north 25 degrees east until it strikes the Ottawas River, to ascend the said river into the Lake Temiscaming; and which said Province of Lower Canada is also bounded by a line drawn due north from the head of the said lake until it strikes the shore of Hudson's Bay.

[The commissions of Captains-General and Governors-in-Chief, &c., subsequent to that appointing the Earl of Elgin and Kincardine, dated October 1st, 1846, contain no Boundary Line descriptions.]

EXTRACTS FROM D'IBERVILLE'S\* MEMORIAL ON THE COUNTRY OF THE MISSISSIPPI, 1702.

(Minnesota Historical Collection, Vol. I. pp. 341-4.)

THE RIVER OHIO.

The River Wabash as far as I know, for more than one hundred and twenty miles is not inhabited. I wish to possess it and have it occupied by the Illinois, who will hunt buffalo, deer, and similar animals which swarm the environs. Where the Illinois now are, they are of no service, being unwilling any long to carry on the beaver trade. Some people may say, as I have heard it said, that they can hunt buffalo in their own country, but I do not think it would be possible. If they hunt on Wabash (Ohio) it will be easy to transport the hides and tallow.

MASCOUTENS, KIKAPOUS, MIAMIS.

The Illinois having removed we could cause it to be occupied by the Mascoutens and Kikapous. This would bring four hundred and fifty men upon the rivers which empty into the Illinois and Mississippi. They now only hunt the beaver, which they sell at the Bay of the Puans (Green Bay), and in the country of the Illinois.

The Miamis, *who have left the banks of the Mississippi* and gone to Chicago on account of the beaver, and those who are at Ortitipicatony, and at the St. Joseph, could readily remove to the Illinois, *where they would join one hundred of their nation who are still at Onisconsin, on the Mississippi.*

The Miamis, Mascoutens, and Kikapous, who were formerly on the Mississippi, placed upon the Illinois or lower down, will withdraw from Canada yearly a commerce of fifteen thousand livres. the Illinois ten thousand, and the Sioux thirty thousand yearly. If Canada did not desire to trade with the Fox tribe, they would return to the Mississippi, and that would take away from the Canadian trade, ten thousand yearly.

THE SIOUX.

If the Sioux remain in their own country they are useless to us, being too distant. We could have no commerce with them, except that of the beaver. M. Le Sueur, *who goes to*

\* Lemsine D'Iberville, a navigator and a man of great reputation, was born at Montreal in 1642, and died at Havana in 1706. He was at one time Governor of Louisiana. He discovered the mouth of the Mississippi, in 1699, ascended the river and built a fort in its border, and founded the colony. His father-in-law, Le Sueur, the discoverer of the Minnesota River, appears to have assisted him in the preparation of this manuscript.

*France to give an account of this country*, is the proper person to make these movements. He estimates the Sioux at four thousand families, who could settle upon the Missouri.

#### MAHAS, OTTOES, IOWAYS.

He has spoken to me of another, which he calls the Mahas, composed of more than twelve hundred families; the Ayooues (Ioways) and the Octootatas, their neighbours, are about three hundred families. They occupy the lands between the Mississippi and the Missouri, about one hundred leagues from the Illinois. These savages do not know the use of arms, and a descent might be made upon them in a river, which is beyond the Wabash on the west.

#### ASSINIBOIN, CNISTINEAUX.

The Assinibouel, Quenistinos, and people of the north, who are upon the rivers which fall into the Mississippi, and trade at Fort Nelson (Hudson's Bay), are about four hundred men. We could prevent their going there if we wish.

#### VALUE OF INDIAN COMMERCE.

In four or five years we can establish a commerce with these savages, of sixty or eighty thousand buffalo skins; more than one hundred deer skins, which will produce, delivered in France, more than two million four hundred thousand livres yearly. One might obtain, for a buffalo skin, four or five pounds of wool, which sells for twenty sous; two pounds of horse hair at ten sous. Besides, from smaller peltries, two hundred thousand livres can be made yearly.

#### SUGGESTIONS FOR THE DOMESTICATION OF THE TRIBES.

The savage tribes located in the places I have marked out, make it necessary to establish three posts on the Mississippi: one at the Arkansas, another at the Wabash (Ohio), and the third at the Missouri. At each post it would be proper to have an officer, with a detachment of ten soldiers, with a sergeant and corporal. All Frenchmen should be allowed to settle there with their families, and trade with the Indians, and they might establish tanneries for properly dressing the buffalo and deer skins for transportation.

No Frenchman should be allowed to follow the Indians in their hunts, as it tends to keep them hunters, as is seen in Canada; and when they are in the woods, they do not desire to become tillers of the soil. \* \* \*

I have said nothing in this memoir of which I have not personal knowledge, or the most reliable sources. The most of what I propose is founded upon personal reflection, in relation to what might be done for the defence and advancement of the colony. \* \* \*

It will be absolutely necessary that the King should define the limits of this country in relation to the Government of Canada. It is impossible that the Commandant of the Mississippi should have a report of those who inhabit the rivers that fall into the Mississippi, and principally those of the River Illinois.

The Canadians intimate to the savages that they ought not to listen to us, but to the Governor of Canada, who always speaks to them with large presents; that the Government of the Mississippi is mean and never sends them anything. This is true, and what I cannot do. It is imprudent to accustom the savages to be spoken to by presents, for, with so many, it would cost the King more than the revenue derived from the trade. When they come to us it will be necessary to bring them in subjection, make them no presents, and compel them to do what we wish, as if they were Frenchmen.

The Spaniards have divided the Indians into parties on this point, and we can do the same. When one nation does wrong we can cease to trade with them, and threaten to draw down the hostility of other Indians. We rectify the difficulty by having missionaries, who will bring them into obedience secretly.

The Illinois and Mascoutens have detained the French canoes they find upon the Mississippi, saying that the Governors of Canada have given them permission. I do not know whether this is so; but if true it follows that we have not the liberty to send any one on the Mississippi.



M. Le Sueur would have been taken if he had not been the strongest. Only one of the canoes he sent to the Sioux was plundered. . . .

## EARLY MAPS OF THE DISPUTED TERRITORY.

MEMORANDUM BY S. J. DAWSON, ESQ., M. P. P. FOR ALGOMA.

*The western limit of Canada, on a line due west from the Lake of the Woods, according to the Treaty of 1763, considered in connection with the maps affixed to the official Reports on the "Boundaries of Ontario."*

The Treaty of 1763, commonly known as the Treaty of Paris, by which Canada was finally ceded to Great Britain, left the territory known at that time as Louisiana in the possession of France.

This extensive country had the Mississippi, from its source downwards, for its eastern and north-eastern boundary, dividing it from Canada, up to the date of the Treaty of 1783, and from Canada and the United States, for a period of twenty years subsequent to that time.

The vast regions now forming, in whole or in part, the States or Territories of Nebraska, the western portions of Minnesota and Dakota, Iowa, Montana, Wyoming and Colorado to the summit of the "Stony Mountains," with several other states to the south, and a portion of the Dominion of Canada near the Rocky Mountains, to the north, are within the territory which, at the date of the Treaty of 1783, was known as Louisiana. By the second article of the Treaty of 1783, the Boundary established between the British possessions and the United States, in as far as regards the part of the continent under consideration, was a line "from the most north-western point of the Lake of the Woods, "on a due western course to the Mississippi;" and in a Royal Commission issued to Governor Lord Dorchester, in 1786, the part of Canada forming the then Province of Quebec is described as being bounded by a line "from the most north-western point thereof (*i.e.* "the Lake of the Woods) in a due west course, to the River Mississippi, and northward "to the Southern Boundary of the Territories granted to the Merchants Adventurers of "England trading to Hudson's Bay."

It will thus be seen that the western limit of Canada, on a line running due west from the Lake of the Woods, was at that time a matter of interest to three nations. The United States could not go west of the Mississippi, or the boundary recognised as representing that river, nor the nation possessing Louisiana come east of it; while as regards Canada, the Province of Quebec was to have both her western limit on the due west line, and her entire western boundary, running north to the Territories granted to the Merchant Adventurers, determined by the point at which the Boundary between the United States and Louisiana should meet the due west line from the Lake of the Woods.

It is well known that the tributary of the Mississippi system, now called "the Mississippi," is but a small stream, in its upper reaches, having its source a little to the north of the parallel of 47°, in numerous brooks and countless lakelets, far to the south and east of a due west line from the Lake of the Woods.

It does not, therefore, meet the description, and the question arises as to whether it really is the Mississippi meant by the diplomatists who framed the Treaty of 1783, or whether it is not more reasonable to believe that both they and their predecessors who negotiated the Treaty of 1763 had in view the main artery of the vast River System to which the comprehensive name of the Mississippi was applied in those days.

The maps which it is now proposed to consider throw a good deal of light on this important question, and in reviewing the evidence to be gathered from them, it may safely be assumed that, taken collectively, they exhibit all that was known of the geography of the north-western parts of Canada and the adjoining territory of Louisiana, at the time at which the treaties to which reference has been made were entered into.

These explanations seem necessary to a full understanding of the matter at issue, for

the fact that Louisiana was of such extent and bore at one time such important relation to Canada and the United States (and the then boundaries of which are of importance even now) has been lost sight of in later years.

To avoid ambiguity, the parallel of  $49^{\circ}$  north lat., which is now the international boundary, from the Lake of the Woods westward, will be referred to, in what follows, as one and the same thing with the "due west line," although the latter is somewhat farther north. The Mississippi must necessarily be mentioned often, but only in reference to its north-western tributaries.

Mr. Mills has annexed to his report seven maps issued between the dates of 1710, and 1794, namely :

1. "*A Map of North America, corrected from the observations communicated to the Royal Society at London, and the Royal Academy at Paris. By John Sener, F.R.S., 1710.*" (Mr. Mills' Report.)

This map places the sources of the Mississippi at about  $100^{\circ}$  west longitude, and  $48^{\circ}$  north latitude, and to the north-west of this point is marked "a river whose beginning or ending is unknown." A height of land, not far from being in a correct position, is indicated as existing to the north-east of the Mississippi, but the map is of too early a date to afford much information regarding a region in the interior which was but little explored in 1710, the date at which it was issued.

2. "*Delisle's Map of North America, &c., Chief Geographer of His Majesty, and the Royal Academy of Sciences, Amsterdam, 1739.*"

This small map is by a very distinguished French author, and it is valuable as shewing that the Missouri of the present day was the boundary between Louisiana and the Canada of the French.

The evident meaning of the Treaty of 1783 was, that the due west line from the Lake of the Woods should meet the boundary of Louisiana, and on this map that boundary is unmistakably indicated by the first French geographer of his day.

The east branch of the Mississippi is set down as issuing from "Lac Missisacaigan," while a very much larger river, with the words "Mississippi Riv." over it, is indicated as coming in from the north-west.

It therefore follows that the east or Missisacaigan branch, although called the Mississippi now, was not the Mississippi of Delisle's time. The large river referred to corresponds apparently, in its lower sections, with what is now called the Minnesota River. The St. Croix River is represented with wonderful accuracy for such an early map. It is to be regretted that this map—being by so distinguished a geographer—is on so small a scale.

3. "*A Map of Canada and the North part of Louisiana, with adjacent countries. By Thos. Jefferys, Geographer to His Majesty, 1762. Published by Thos. Jefferys, Charing Cross, London.*"

This map is by an English author of some eminence who, in 1760, had published a geographical and historical work on North America. It is but reasonable to believe that the representatives of Great Britain and the United States, in framing the Treaty of 1783, would have had the map of so distinguished a geographer before them. If they had, and were in any way guided by it, they could not have supposed that a due west line from the Lake of the Woods would intersect the waters of the stream now called the Mississippi, for the map shows a height of land and the waters of the Red River intervening between its sources and the parallel of  $49^{\circ}$ , or the due west line—and in this it is correct, although, as might be expected from its early date, in error in detail.

On the map is a note from which it may be inferred that at the date at which it was issued (1762), the "Missouri" or "Mississippi" indicated one and the same river, or that the Missouri was known by the name either of "Missouri," or "Mississippi." The east branch—evidently the stream now known as the Mississippi—is represented as issuing from Lake Missisacaigan, while the main river is marked as coming from the west, with the words "Mississippi R." written over it. From this it is evident that the easterly branch was not known as the Mississippi in 1762.



4. "*A Map of the British Dominions in North America, according to the Treaty in 1763. By Peter Bell, Geographer, 1772.*"

On this map what evidently is the tributary now known as the Mississippi, is called Lake River, and it is represented as issuing from Lake Missisacaigan, which, from its position in reference to the waters near it, appears to be the Leech Lake of modern maps; from this lake it has a course of some two hundred miles to its confluence with the Mississippi.

The main river, marked as the boundary of Louisiana, extends north-westward to the parallel of  $47^{\circ}$  and meridian of  $102^{\circ}$ . To continue it still further, in the same direction, on the course of its general bearing, it would intersect the parallel of  $49^{\circ}$  west of the meridian of  $106^{\circ}$  or nearly 500 miles west of the Lake of the Woods. This map was issued subsequent to the Treaty of Paris (1763), and it is remarkable, in so far as that it extends the supposed Mississippi, marking it as the boundary between Louisiana and Canada, further to the west, although much in the same direction as that indicated on previous maps; and this position for the boundary line and supposed Mississippi is kept up in the maps issued subsequently to Bell's—as will be seen on reference to Pownall's, D'Anville's, and Kitchen's maps. In this it is reasonable to assume that he had been guided by the information which had then, no doubt, become general among geographers, as to the line of demarcation agreed upon as the *Boundary of Louisiana*, at the Treaty of Paris.

It is worthy of remark that the course of this supposed Mississippi of the Treaties, following it to the north-westward, would make it coincide with the actual position of the Missouri for a considerable distance at the great bend between the parallels of  $47^{\circ}$  and  $48^{\circ}$ , and the meridional lines of  $101^{\circ}$  and  $104^{\circ}$ .

5. "*North America, from the French of M. D'Anville, with the English Surveys made since the Peace.*"

This map, in so far as it shows the upper waters of the Mississippi and the boundary of Louisiana, is very like Bell's. The eastern branch or Lake River, now called the Mississippi, issues from Lake Missisacaigan, with tributaries from the north flowing into that lake.

The Mississippi of the Treaty of Peace is represented as stretching off, at an angle of about  $15^{\circ}$  or  $20^{\circ}$  to the north of west, which would carry it to the parallel of  $49^{\circ}$ , about the meridian of  $105^{\circ}$ , or over four hundred and fifty miles to the west of the Lake of the Woods. As if to mark emphatically which branch was to be known as the Mississippi, the words "Mississippi R." are set down over the west branch—above its confluence with the east branch.

These two maps—Bell's and D'Anville's—published after the Peace of Paris, afford conclusive evidence as to the line intended for the boundary between Louisiana and Canada. It certainly was not the tributary to which the term Mississippi is applied at the present time.

6. "*Pownall's Map of the British Possessions in North America, A.D. 1775.*"

This map shows the eastern branch of the Mississippi issuing from "Red Lake," evidently the Missisacaigan of Jeffery's, Bell's, and D'Anville's maps. It is, like the two last, quite conclusive as to the boundary of Louisiana running off to the west, and it is equally clear as to the sources of the eastern branch (or Mississippi of the present time) falling short of the latitude of the Lake of the Woods. Governor Pownall would likely have had access to official documents bearing on the matter, and with his map of 1775 before them, it will hardly be supposed that the framers of the Treaty of 1783 could have been led away with the idea that a due west line from the Lake of the Woods could intersect the river now called the Mississippi.

7. "*North America, wherein are particularly distinguished the British Dominions, the United States, and the adjacent Spanish Territories. By Thomas Kitchen, Hydrographer to His Majesty. London: Published by Laurie & White, No. 53 Fleet Street, as the Act directs, 12th May, 1794.*"

This is an elaborate map, carefully compiled no doubt from all the sources of information available at the time at which it was issued.

It derives additional interest from having been published *subsequent to the Treaty of 1783* between Great Britain and the United States, for all the others were published before that date. It is consequently the only one of the series on which the due west line from the Lake of the Woods, forming the boundary line between Canada and the United States, in that section, could have been exhibited.

The eastern branch of the Mississippi or Lake River, is shown as having its source a little to the north of the parallel of  $47^{\circ}$  in Lake Missisacagan, and this lake corresponds very nearly with the actual position of Leech Lake, so that there can be no doubt of this Lake, River being the tributary now known as the Mississippi.

As regards the upper water generally, this map differs but little from Bell's map, and the Mississippi—marked as on it as the boundary of Louisiana—would, if produced north-westward, on the general bearing on which the upper part is projected, as in the case of Bell's projection, reach the parallel of  $49^{\circ}$  west of the meridian of  $105^{\circ}$ .

It will be seen that on this map a line, marked as the boundary of the United States, is drawn due west from the Lake of the Woods, and that this line—applying the scale set down on the map—would be over two hundred miles north of the Mississippi, about the meridian of Fort Garry.

Regarding the position of the Mississippi, this map agrees with Bell's map of 1772, and with D'Anville and Pownall's maps, while Jeffery's map of 1762 is perfectly clear as to a height of land and another river system intervening between the sources of the stream now known as the Mississippi and the due west line from the Lake of the Woods. [How then could those who framed the Treaty believe in the existence of a Mississippi east of the Red River, which would be cut by a due west line from the Lake of the Woods. ?]

8. "*Delisle's Map of Canada, or New France, 1703.*" (Mr. Lindsey's Report.)

This map shows that at even as early a date as 1703, the Mississippi had been to some extent explored, as far at least as the latitude of Lake Superior.

What appears to be its principal easterly branch, is marked as issuing from "*Missisacagan ou Lac Buade,*" and flowing south-easterly to the main Mississippi. Its name on this map is "*Mendeouaconitoni,*" and it is clearly distinguished from the Mississippi, which latter is set down as coming, for a great distance, from the north-west.

This map is referred to chiefly to shew that the tributary now called the Mississippi was not the Mississippi of the early explorers. In 1703, exploration had not extended so far to the north-west as to show much of the northern water-shed; but this early map of Delisle's contains a great deal that is valuable, although it does not further bear on the immediate question under consideration.

9. "*Carte des Nouvelle dé couvertes dans l'ouest du Canada dressée sur les Mémoires de M. de la Verandrie et donnée au Dépôt de la Marine par M. de la Galissoniere, 1750.*" (From Mr. Lindsey's Report.)

This chart shows clearly that, in 1750, it was known that the country, for a considerable distance to the south of the latitude of the Lake of the Woods, was occupied by the water system of the Winnipeg; so that, with this map, or the information it conveys, before them, as it is reasonable to suppose it was, the representatives of Great Britain and the United States, in framing the Treaty of 1783, could not have adopted a Mississippi as existing between the Lake of the Woods and Red River. Otherwise, it must be supposed that they believed in the strange phenomenon of a large river, flowing for hundreds of miles to the south, between two neighbouring rivers—one on either side of it—running to the north.

The description in the Treaty is, however, perfectly intelligible, and would never have been misconstrued had these maps, now submitted to the Legislature, been generally accessible.

In reference to these maps, generally, they point to the Missouri, west of the great bend, as having been the Upper Mississippi of the Geographers of the last century, and this is accounted for by the fact that it was first explored from the direction of the Assiniboine, the tributaries of which interlace with those of the Missouri.



As early as 1742, the Chevalier de la Verandrie had crossed over from the Assiniboine and explored the Upper Mississippi, as he named it, to the Rocky Mountains. On the 12th March, 1743, he took formal possession of the country, and interred a plate, bearing the arms of the King of France, on an eminence near his fort.

At the date of the Treaty of 1763, the French traders, whose head-quarters were on the Red River of the north, had establishments on the Upper Mississippi, as well as on the neighbouring tributaries of the Assiniboine; but there seems then, and even to a much later period, to have been a considerable interval of unexplored country between the great bend of the Missouri, near the meridian of  $100^{\circ}$ , and the Mississippi, near its point of junction with the Minnesota River; and hence the error contained on all the maps of the time, of making the Missouri or Upper Mississippi join the easterly branch, or what is now called the Mississippi, near its confluence with the Minnesota River.

In view of all the facts, there can be no doubt that the Upper Mississippi of the present time was the Mississippi of the Geographers of the last century.

*The North-West boundary of Canada, on the Parallel of  $49^{\circ}$  north Latitude, according to the Treaty of 1783 between Great Britain and the United States.*

It will doubtless be admitted that the maps to which reference has been made, extending, as to date, over a considerable period of time, and by different authors, some of whom were highly distinguished as geographers in their day, represent fairly the geographical knowledge existing at the date of the Treaty of 1783. Admitting this, it follows:

1st. That the diplomatists who framed the Treaty, knew perfectly well that the branch of the Mississippi River system, now called "the Mississippi" would not and could not have been intersected by a line running due west from the Lake of the Woods, because the maps of the time, *which were their sole sources of information*, agree in representing its most northerly waters as being far to the south of such a line.

2nd. That from the evidence of the maps, it is seen that they (the framers of the Treaty) had in view a supposed river, forming the boundary of Louisiana, which would be intersected by the due west line in question, somewhere about the meridian of  $105^{\circ}$  or  $106^{\circ}$ , or at a point over four hundred and fifty miles west of the Lake of the Woods.

3rd. That a branch or tributary of the Mississippi (or Missouri, rather, which is itself a branch of the Mississippi) called the White Earth River, is actually intersected by the due west line in question, within a comparatively short distance of the point at which the supposed river, represented on the maps as the boundary of Louisiana, and which it is evident they had in view, would have been intersected by that line.

From these facts it is impossible to avoid the conclusion that the true intent, meaning and spirit of the Treaty of 1783 was, that the western boundary of Canada and the United States, and the eastern limit of Louisiana, on the due west line, or parallel of  $49^{\circ}$ , should be at a point somewhere near the meridian of  $105^{\circ}$  or  $106^{\circ}$ , upwards of four hundred and fifty miles west of the Lake of the Woods.

The assumption that the framers of the Treaty had in view any Mississippi to the east of the Red River, is quite untenable, for some of the best maps of the time, issued by the most distinguished geographers, represent the country east of the Red River, and far to the south of the due west line, as being occupied by another river system, as it really is; and all of them agree in marking the boundary of Louisiana, which was the *real line to be reached*, as leading far to the west of the Red River.

In view of these maps, it cannot for a moment be conceived that the geographers of those days had any idea, or ever represented, that a due west line from the north-west point of the Lake of the Woods, would intersect the Mississippi, east of the Red River; nor can it be imagined that diplomatists, in framing an international Treaty, would adopt a conclusion relative to a matter of geography, different from that presented by the most eminent geographers of the nations interested.

It has been suggested that the difficulty would be best met by drawing a line due north from the source of what is now called the Mississippi to the parallel of  $49^{\circ}$ ; but such a line would intersect that parallel, *to the east of the west coast of the Lake of the Woods*, so that a due west line from that lake would meet neither this north line nor the Mississippi.

But what need to make or adopt imaginary lines, or quibble about the word "Mississippi," which is in fact the general name of an immense river system, when the true spirit

and even letter of the treaty can be met by adopting the line already run on a due west course as expressed in the Treaty, "to the Mis-issippi," or at least to its first waters, near the White Earth River, which this "due west line" *does intersect*, very near, and only a little way to the west of, the supposed Mississippi which the representatives of the nations interested, as shown by the maps of the time, *intended* as the western boundary of Canada and the United States, and the eastern limit of Louisiana, on a "due west line from the Lake of the Woods."

They would not surely have come four hundred miles to the eastward of the boundary recognized on the maps to adopt a Mississippi where they *knew* that no such river existed, and give a vast extent of territory to Louisiana, which was then in the possession of a foreign European Power, and the enlargement of which might have affected both British and United States interests.

9th November, 1876.

S. J. D.

### THE FIRST OVERLAND JOURNEY MADE BY THE FRENCH TO HUDSON-BAY, 1671-2.

*By C. Lindsey, Esq.*

Claude Dablon, who was Superior of the Upper Algonquin Missions in 1670, says, (Relation 1670,) there were three missions among these nations: one, the centre of the three, at Sault Ste. Marie; another and the most distant, called Saint Esprit, near the farther end of Lake Superior, at a point called by the Indians Chagonamigong; the third, that of Saint Francois Xavier, in the Bay of Puans (Green Bay).

Two nations, numbering five hundred souls, mere wanderers without any fixed abode, used to go northward to hunt during winter, and return to the Sault to fish in the summer. "There remain," says Dablon, "six other nations, whose abode is on the borders of the North Sea (gens de la Mer du Nord), as the Guilistiones or the Oninibigone, or rovers in the lands which border on this same North Sea, the greater part of whom have been driven out of their country by famine, and who come here from time to time to enjoy the abundance of fish. Two reasons among others led us to the resolution to make a voyage to the North Sea. The first, to see in what way we could apply ourselves to the conversion of these people, in spite of the great obstacles that oppose themselves thereto in view of their mode of life, which consists of running incessantly through the thick woods, and only meeting together on rare occasions of feasts and fairs, according to custom. The second cause of this voyage is at length to descry this North Sea (Mer du Nord), about which so much has been said, and which has not yet been found by a land route.

"The motives of this discovery are—first, to ascertain whether this sea is the bay into which Hudson (Hutson) penetrated in the year 1612, or some other, by comparing the latitude and longitude of this place with those of the North Sea, and finally to discover what part of the North Sea is nearest to us; secondly, to ascertain whether communication between this sea and Quebec is feasible, by following a northward line, as was attempted some years ago, which depends on the situation of the bay which is behind us here, at the north; because if it should prove to be that of Hudson, or another farther west, an easy commerce could not be hoped for, since it would be necessary to double a point which reaches above the 63° of latitude (elevation); thirdly, to arrive at the truth of the strong conjectures which were long since started, that it is possible to pass by this route to the Japon Sea; for what has been said in some preceding Relations touching this matter is more and more confirmed by the reports of the Indians and the information we have drawn from them; that, at some days' journeys from the mission of St. Francois Xavier, in the Bay of Puans (Green Bay), there is a great river more than a league wide, which comes up from the north, runs towards the south, and is so long that the Indians who have navigated it, in search of enemies, have not found the embouchure, which must be near the Sea of Florida or of California. A considerable nation, who live near this river, will hereafter be spoken of, as well as the voyage which we hope to make this year, to carry the faith there, and, at the same time, to acquire a knowledge of this new country. Besides, we are also assured by the reports of many other Indians, between whose statements there is a remarkable accord, that at the distance of two hundred leagues from the Ottawas Mission of Saint Esprit is to be found the Western Sea,



into which it is possible to descend by another great river, eight days' journey from the said Mission, which river comes and goes far inland (it is in this way that the savages explain the ebb and flow of the sea), and one of them says he has seen four sailing vessels upon it.

"After these two seas, that of the south and that of the west, there remains only that of the north, in order that we may be environed on all sides; this being once discovered, these advantages might be drawn from it: that it is not impossible to pass from the North Sea to that of the south, or that of the west; secondly, that this Western Ocean can be no other than that of Japon, the voyage to which may be facilitated, and commerce opened up."

In another Relation of the same year, Dablon reports:—"One of our Fathers left quite recently for the North Sea, which no Frenchman has yet reached, fully resolved to go over land as far as the famous Bay of Hudson, and to light the lamp of our holy religion in the presence of these people, who have to the present time been in the darkness of infidelity."

The Jesuit father here referred to was Albomel. Claude Dablon, by whom Albomel's relation of his voyage was transmitted to the Provincial of the Order (France), Jean Pinnette, was the Superior of the Jesuit mission in New France, and from him we learn that the voyage was undertaken by the desire and at the expense of the Government.

"The discovery of the North Sea and the famous Bay of Hudson," says Dablon, "which has been long sought for, was undertaken last year by order of Monsieur Talon, our Intendant, who has furnished one of our missionaries with the means of carrying the faith into these countries, where it has never been delivered, as will be seen by the narrative of the voyage which he made overland."

In the Relation of the year 1672 there is a full account of Albomel's voyage to Hudson Bay. The statement is repeated that the French had never before gone to Hudson's Bay by land.

"The sea to the north of us," says the Relation, "is the famous bay to which Hudson has given his name, and which has so long excited the curiosity of our Frenchmen, and the desire to make the discovery by land, and to ascertain its situation with respect to us, its distance, and who are the people who live upon its shores. The desire to obtain a knowledge of this sea has increased since we learned from the savages that some vessels arrived there quite recently, and had commenced a commerce with these nations, which we have always been informed were numerous and rich in pelteries.

"It is for this reason that M. Talon, our Intendant, thought that he ought to neglect no means within his power to make this discovery: and because he is aware that the intention of His Majesty is that all the peoples of Canada should be instructed in Christianity, he has asked the services of one of our fathers, who could open the road to our Frenchmen, while bearing the Gospel thither.

"Father Charles Albomel, an old missionary to Tadousac, was selected because for a long time he had frequently conversed with savages who have a knowledge of this sea, and who alone could act as guides over this route, up to this time unknown to Frenchmen.

"Monsieur de St. Simon, with another Frenchman, having been chosen for this enterprise, and the Intendant having amply furnished them with everything that was necessary for success, the Father started from Quebec on the 6th of August, 1671, Tadousac being made a rendezvous where he was to choose a dexterous and intelligent savage to serve as a guide during the voyage."

The Journal of Albomel, as written at the time, is incorporated in the *Relation*. It is long, and only the leading facts it contains need here be stated. Albomel arrived at Tadousac on the 8th of August, 1671. He left on the 22nd, and in four days arrived at Chicoutimi, which he left on the 29th. On the 2nd Sept., he entered Lake St. John, and on the 7th got to the far end of it. On the 17th he met five canoes of Attikamenges, from whom he learned that two vessels had anchored in Hudson's Bay, had done a large trade with the Indians, and the traders had established themselves there for purposes of commerce (*s'y estant établis pour le commerce*). They showed a hatchet and some tobacco which they had obtained from a Papinachois, who had been to trade near the North Sea this same summer.

These Indians represented the great danger there would be in continuing the voyage towards that sea; but Albomel was not alarmed. But as winter was at hand and he was without passports, he sent back to Quebec for them and also to ask instructions what he ought to do under the circumstances mentioned. On the 10th October, the canoe returned with the patents of the Bishop of Quebec, and passports from the Governor, Courcelles, and the

Intendant. "I also," adds Albanel, "received their opinion, which was of great service to me in this conjuncture of affairs."

Albanel remained in winter quarters, and again commenced his journey towards the North on the 1st June, 1672. On the 25th he arrived at Nemiskam, which he describes as a great lake, of which it takes ten days to make the circuit. Six large rivers discharge into this lake, one of which bends like an elbow to the north-east. Over this land a portage was made.

On the 28th, Albanel reports: "Scarcely had we advanced a quarter of a league, when we fell in with a creek on the left, in which there was a sailing vessel of ten or twelve tons, bearing the English flag, with a smack-sail (*voile latine*), above; within gun-shot, we entered two deserted houses. A little farther on, we discovered that the savages had wintered near there, and that they had only recently left; we therefore pursued our route to a point six leagues distant from the house of the Europeans. There, it being low tide, and the wind adverse, we entered into a small river on the right, coming from the north-east, where we fell in with two or three cabins and a dog that had been abandoned, which made us understand that the savages were near and that it was not more than two days since they had departed.

"All the evening we remained there, firing volleys to make ourselves heard, and gazing with pleasure upon the sea for which we had so diligently searched, and this famous Bay of Hudson."

The river by which Albanel entered the Bay was called Nemiskansipion, and has its source in Lake Nemiskam. It is almost half a league wide in many places. No act of taking possession of the shores of the Bay was gone through; but when he reached Nemiskam, Albanel reports: "We set up the arms of the King, on the point of an island which divides the lake, on the 9th of June." This was on the tenth day after they had set out on their return, and four days after they had re-entered the river; so that the point where they took possession, whatever that act may have been worth, was a considerable distance from the sea.

"On my return to Quebec," Albanel says, "I gave an account of our voyage to the persons by whom I had been employed, and who, I knew, had had the largest share in the success of this mission. I informed them of the cause of my having returned so promptly, of the places I had seen, and what I had done for the salvation of all these peoples, in the publication of the gospel, the establishment of our holy religion, and for the glory of our great Monarch, among all these nations, which we had been able to converse with, that I might make them a more ample and faithful report."

It would seem from this that a separate report was made to the Government, besides that transmitted to the Provincial of the Order of the Jesuits.

Up to the present time, Albanel affirms in decided language, "This voyage had been thought impossible to the French." Three times it had been attempted in vain. In making the voyage two hundred falls were encountered in the rivers, and as many portages had to be made; four hundred rapids had to be passed over.

There cannot remain a doubt that 1672 is the year in which the French first achieved a passage to Hudson's Bay, overland from the St. Lawrence.

#### TAKING POSSESSION OF THE COUNTRY OF THE OÜTAOUAS, SAULT STE. MARIE, 1671.

(From '*Mémoire sur les Mœurs, Coustumes, et Religion des Sauvages de l'Amerique Septentrionale*,' Par Nicolas Perrot.\*)

(Extracts.)

. . . M. Intendant Talon asked me if I would consent to go up to the country of the Oütaouas, as interpreter, and to lead there a sub-delegate that he would appoint in order

\* Nicholas Perrot, a man of good family, was born in Canada and accustomed from childhood to the excitement and incidents of border life. Being for a time in the service of the Jesuits, he became familiar with most of the Indian tribes upon the borders of the great lakes, and with their customs and language. These held him in extraordinary esteem, and accorded him the same rights and prerogatives as their native chiefs. He appears to have established the first trading post on the Upper Mississippi (see *post*, p. 307). From 1665 to 1701 his name was a familiar one to both French and natives, and he used his influence with the latter largely in the interests of Canada, whose successive Governors courted his services. His family resided at Bécancourt (near Three Rivers), where he himself died during the first years of the 18th century. (These particulars are gathered from the preface and notes to his "Mémoire," and from Neill's Hist. of Minnesota, chap. 5.)



to take possession of the same. I told him that I was always ready to obey him, and that my services were at his disposal. Therefore, I left with M. de Saint Lussion, his sub-delegate, and we reached Montreal, where we remained till the beginning of October, (1670.) We were compelled in the course of our journey to winter amongst the Amikonëts; the Saulteux spent the winter also in the same localities. . . .

They were notified to go back to their homes as early in the spring as possible, in order to listen to what M. Saint Lussion had to say to them and to all the tribes in the name of the King. I despatched Indians also to inform the northern tribes that they should not fail to be in their country. I dragged and removed afterwards a canoe on the other side of the island, where I landed. . . . Thence we left for the *Baie des Renards et Miamis*, which is not very far, and I made all the chiefs come to the Sault Ste. Marie, where we intended to erect the posts and affix the arms of France, in order to take possession of the country of the Outaouais. That event took place in the year 1669. [1671?]

I went, on the fifth of the month of May, to the Sault Ste. Marie, accompanied by the principal Chiefs of the Pouteoutamis, Sakis, Puans and Malhommis (Malouminès or Folles-Avoines); those of the Foxes (Ontagamis), Mascouetechs (Mascoutins), Kikabous and Miamis did not go beyond the Bay. . . . I found at my arrival, not only the Chiefs of the North, but also all the Kiristinons, Mousonis, and the Indians of entire neighbouring villages; the Chiefs of the Nepissings were there also, as well as the Amikouëts and all the Saulteurs who inhabited the locality. The post was set up in their presence, and the arms of France were affixed thereto with the assent of all the tribes, which, not being able to write, gave us presents instead of their signatures; they declared thus that they were putting themselves under the protection and dominion of the King. *Procès verbaux* were drawn on the subject of this taking of possession, upon which I signed as interpreter, and M. de Saint Lussion as sub-delegate; the Revds. Fathers Missionaries Dablon, Allouez, Dreüillette and Marquet [Marquette]\* signed afterwards, and, below, the Frenchmen who were on the spot, engaged in the fur trade. The proceedings were in conformity with the instructions given by M. Talon. All those tribes went back afterwards to their homes, and lived during many years without any trouble on both sides.

I have omitted to say that the Hurons and the Outaouas did not arrive until after the taking of possession; because they had fled from Chaguamikon after having eaten some Sioux. They were informed of what had taken place, and they assented, like all the others, to all that had been decided or concluded.

(Extract from the Article on Louis Joliet, By Pierre Margry.†)

Joliet witnessed on the 16th July, 1671, the act by which Simon Francois d'Aumont, Sieur de Saint Lussion, took possession at the Sault Ste. Marie of all the adjacent country. Saint Lussion had been ordered to go to this country in order to try to discover mines of any kind, especially those of copper. Talon, besides, had instructed Saint Lussion, wherever he would pass, to take possession of the country inhabited, to plant there the cross of the Christ with the arms of France at the first bourgade.

Saint Lussion met on his arrival at Sault Ste. Marie, a Jesuit mission, the Achiponai, the Malomechs, and the Nougets, who resided there. He had collected there as many of the surrounding tribes as he had been able to do; they were fourteen in number, as follows: besides the three nations of Lake Superior, the Banabeouik, the Makousitek, the Poulteatomis, the Oumalhominis, the Sassassonaectous, which inhabited the Baie des Puants.

These Indians promised to inform the Illinois, Maskontins, Outagamis, and other tribes, of that taking of possession, whilst the Christinaux, the Assenipoels, the Oumonsomi, the Outawas, Bouscottous, the Niscaks, and Masquikonkioeks, all inhabiting the northern lands, and present at the Sault, were instructed to announce the same to the tribes with which they were in relations, and that were supposed to reside in great numbers on the shores of the sea.

Saint Lussion having done, read his commission by Nicolas Perrot, King's interpreter, in the presence of these Indians, the Jesuit Fathers, and a few Frenchmen, erected a cross as

\* This is a mistake: it should be Father André, as appears on the next page, and also by a note of the French editor of Perrot's book. Father Marquette, the latter states, was with the Hurons and Outaous, who arrived too late to take part in the ceremony. (Vide Perrot's "Mémoire," p. 295, note by Ed.)

† A well known French writer, very familiar with the archives of the Ministry of Marine and Colonies at Paris, of which he is in official charge. See ante, p. 73.

a proof of his desire that Christianity should be fruitful in these localities. The arms of France had been affixed near this cross on a cedar tree.

Saint Lusson had said three times, and with a loud voice: That in the name of the Most High, Mighty, and Most Powerful King Louis, fourteenth of that name, Most Christian King of France and Navarre, he took possession of the place of Sainte Marie du Sault as well as of Lake Huron, Lake Superior, Ecaontoton Island, and of all the other countries, rivers, lakes and streams contiguous and adjacent to those already discovered or to be discovered, limited on one side by the seas of the north and west, and on the other by the sea of the south, in all their length. Every time that Saint Lusson uttered these words, he concluded them, in raising a piece of turf, with a shout of *Vive le Roi*, which was repeated by the whole assembly of French and Indians. He delivered afterwards to all those present, that in the future they would be subjects of the King, that they would be governed by his laws, and that no other power could occupy this country without incurring his displeasure and the effects of his arms.

Joliet signed, on this occasion, after Nicolas Perrot, the act that was drawn of this taking of possession. The other Frenchmen were, the Rev. Father Claude d'Ablon, Superior of the Missions of those countries, the Rev. Father Gabriel Dreuilletes, the Rev. Father Claude Allouez, the Rev. Father André,\* Jacques Maugras, inhabitant of Three Rivers; Pierre Moreau, Sieur de la Taupine, soldier of the garrison of the Castle of Quebec; Denis Masse, Thanevis de Chavigny, Sieur de la Chevrière, Jacques Lagillier, Jean Mayseré, Pierre Porteret, Robert Duprat, Vital Oriol, Gabriel Bonhomme, etc.

#### MEMOIR OF THE TAKING POSSESSION OF THE COUNTRY ON THE UPPER MISSISSIPPI,†

Record of the taking possession, in His Majesty's name, of the Bay des Puants (Green Bay), of the lake and rivers of the Outagomis (Fox River), and Maskoutins (Lake Winnebago), of the river Ouiskoneche (Wisconsin), and that of the Mississipi, the country of the Nadonesioux, the rivers Ste. Croix and St. Peter, and other places more remote, 8th May, 1689. (*sic*.)

Nicholas Perrot, commanding for the King at the post of the Nadonesioux, commissioned by the Marquis de Denonville, Governor and Lieutenant-General of all New France, to manage the interest of commerce among all the Indian tribes and peoples of the Bay des Puants, Nadonesioux, Mascoutins, and other western nations of the Upper Mississippi, and to take possession in the King's name, of all the places where he has hitherto been, and whither he will go.

We, this day, the eighth of May, one thousand six hundred and eighty, (*sic*) do, in presence of the Reverend Father Marest, of the Society of Jesus, missionary among the Nadonesioux; of Mons. de Barie-Guillot, commanding the French in the neighbourhood of Ouiskoneche, on the Mississippi; Augustin Legardeur, Esquire, Sieur de Caumont, and of Messieurs Le Sueur, Herbert, Lemire and Blein, declare to all whom it may concern, that having come from the Bay des Puants, and to the Lake of the Ouiskoneches, and to the River Mississippi, we did transport ourselves to the country of the Nadonesioux, on the border of the River Saint Croix, and at the mouth of the River Saint Peter, on the bank of which were the Mantantans, and farther up into the interior to the north-east of the Mississippi as far as the Menchokatoux, with whom dwell the majority of the Songestikons and other Nadonesioux, who are to the north-east of the Mississippi to take possession for, and in the name of the King, of the countries and rivers inhabited by the said tribes, and of which they are proprietors. The present Act, done in our presence, signed with our hand, and subscribed by the Reverend Father Marest, Messrs. de Barie-Guillot and Caumont, and the Sieurs Le Sueur, Hebert, Lemire and Blein.

Done at the Post St. Anthony, the day and year aforesaid. These presents are in duplicate. Signed to the original: Joseph Jean Marest, of the Society of Jesus; N. Perrot, Legardeur de Caumont, Le Sueur, Jean Hebert, Joseph Lemire, and F. Blein.

\* See p. 306, note.

† From *Historical Collections of Louisiana and Florida*. By B. F. French (second series), p. 122.



## ESTABLISHMENT OF THE FRENCH IN LOUISIANA, 1699-1738.

(Extracts.)\*

M. le Sueur also came passenger in the Gironde. He had acquired celebrity by his travels in Canada, and was now sent on the part of M. L'Huillier, Farmer-General, to make a settlement on the Mississippi, and to work some mines there which he had discovered some years before. . . . On the 19th, MM. d'Iberville and Bienville, with M. Dugué and ten marines, arrived at the village of the Bayagoulas. On the same day M. le Sueur, who had set out on his journey to the Scioux Nations, also arrived there.—(p. 17.)

On the 16th November, two canoes with *voyageurs* arrived from the Illinois. One of them was M. Laurain, who had been to the Missouri River. He gave an account of the nations who inhabited that country, as well as of some Spanish settlements on the frontier of Mexico.

On the 16th, Father Gracio, a Jesuit, returned from the Illinois severely wounded. He had much trouble in making his escape, as that nation had already declared war against the French.—(p. 34.)

At the time [1713] of the transfer [to M. Crozat], there were in the colony four hundred persons, including twenty negroes, and three hundred head of cattle.—(p. 39.)

In the month of August, 1717, a company was formed in France under the title of the "Western Company." At this period there were in the colony seven hundred persons, and four hundred head of cattle. They had entirely neglected to cultivate the land.—(pp. 49, 50.)

In the beginning of October, M. de Boisbulhoit set out to command in Illinois; and at the same time M. de la Harpe embarked with fifty men for his concession at Cadodouquiou, on Red River, with orders to establish a post there, and to ascertain the number of Indian tribes in that country.—(p. 63.)

On the 29th December, M. de Bienville received a letter from M. Dutisne, dated Kaskaskias, November 22, 1719, with an account of his travels to the Village of the Missouris by the river, and to the villages of the Osages and the Panis by land. He observed that the water of the Missouri had a strong current, was muddy, and filled with floating timber. The country was beautiful and well wooded. That two rivers from the west, the Osage and Blue Rivers, emptied into the Missouri. At a distance of eighty leagues from the mouth of the Osage are situated the villages of that nation, in the neighbourhood of which are a great number of lead mines. In travelling west he crossed very high mountains, and many streams falling into the Missouri and the Mississippi. That from Kaskaskias to the Osages is 120 leagues. This nation is not stationary like the Missouris, but spend the winter in hunting buffalo. They are stout and well-made, and great warriors. The chiefs are absolute in their villages. Lead mines are abundant in their country, but they are unacquainted with the uses of it. From the Osages to the Panis villages is forty leagues in a north-west direction, and he passed over prairies and plains filled with buffalo. They are not civilized, but are accessible by making them a few presents. In fifteen days he reached the Padoucahs, who are a very brave and warlike nation. Here M. Dutisne erected the arms of the King, 27th September, 1719.

M. Bernard de la Harpe returned to Mobile from Red River, on the 26th January, 1720, after having established a post at the village of the Cododouquiou. It had been previously stated that he arrived in Louisiana in the month of August, 1718, and set out for Red River with fifty men. He returned to New Orleans in the following October, and on the 10th December he set out again for Red River, with a detachment of troops, to establish a fort among the Cadodouquiou. When he arrived at Natchitoches (where a fort is built),

\* From the "Historical Journal of the Establishment of the French in Louisiana," by Bernard de la Harpe, as translated and given in "Historical Collections of Louisiana," by B. F. French (Part III.). M. de la Harpe was a French officer of distinction, who went to Louisiana in 1718 to settle a colony on Red River. He built a fort in January, 1719, near Natchitoches, from whence he explored the country of Texas as far as the Rio Grande. After making further explorations, he returned in 1723 to France, where he wrote his "Journal."

† M. Crozat, Marquis du Chatel, was one of those great financiers who flourished in the reign of Louis XIV., when he obtained the Royal Charter granting him so many commercial privileges. The military force of Louisiana, at that time, did not exceed two companies of infantry, of 50 men each, seventy-five Canadians, and about three hundred persons of every description, scattered over a boundless territory. He died on the 7th June, 1738.

he found M. Blondel in command, and Father Manual at the mission of the Adayes, about nine leagues distant.—(pp. 66-68.)

The Western Company recommended them to have a good understanding with M. de Vaudreuil, Governor of Canada, in regard to the wars with the Indians; ordered that the post established by M. de Boisbriant, nine leagues above the village of the Kaskaskias, should be called Fort Chartres; that at Biloxi, Fort Louis; that at Mobile, Fort Condé.—(p. 84).

\* \* \* \* \*

On the 24th [March, 1721], M. de Boisbriant wrote to M. de Bienville from the Illinois, that three hundred Spaniards had left Santa Fé, the capital of New Mexico, for the purpose of conquering the colony, but only seventy had put their threat into execution, who had arrived at the Kansas River where they encountered the Ocototota and Panis Indians, who massacred all except a priest, who had made his escape on horseback.—(p. 87).

### LETTERS PATENT GRANTED TO THE WESTERN COMPANY, 1717.\*

(Extracts.)

V. With a view to give the said Western Company the means of forming a firm establishment, and enable it to execute all the speculations it may undertake, we have given, granted and conceded, do give, grant and concede to it, by these present letters, and for ever, all the lands, coasts, ports, havens and islands, which compose our Province of Louisiana, in the same way and extent as we have granted them to M. Crozat, by our letters patent of 14th September, 1712, to enjoy the same in full property, seignior and jurisdiction, keeping to ourselves no other rights or duties, than the fealty and liege homage the said Company shall be bound to pay us, and to the kings our successors at every new reign, with a golden crown of the weight of thirty marks.

\* \* \* \* \*

X. The said Company shall be at liberty to establish such governors, majors and others as they may think fit to command the troops, and the said governors and major officers shall be presented to us by the directors of the Company, in order that we may deliver to them our commissions.

### CIVIL AND MILITARY DIVISIONS OF LOUISIANA IN 1723.†

Louisiana, in 1723, was divided into nine civil and military districts, as follows, viz.:—1st, the district of the Alibamous; 2nd, of Mobile; 3rd, of Biloxi; 4th, of Natchez; 5th, of New Orleans; 6th, of Yazoo; 7th, of Illinois; 8th, of Arkansas; and 9th, of Natchitoches. Each was protected by a fort, and under the jurisdiction of a commandant and judge, who administered the military and civil concerns of each.

FORT CHARTRES was the headquarters of the commandant of Upper Louisiana, and was deemed one of the strongest French posts in North America. It was erected in the vicinity of Prairie du Roche (in 1720), about one mile and a half from the river bank, about twenty miles below Kaskaskias. Its form was quadrilateral, with four bastions built of stone, and well cemented with lime. Each side was three hundred and forty feet in length; the walls were three feet thick and fifteen feet high. Within the walls were spacious stone barracks, a spacious magazine, well, etc. The cornices and casements, port-holes or loops, were of solid blocks of stone. In 1770, the river broke through its banks, and in two years afterwards two of its bastions fell into the river. It was then suffered to fall into decay, and it is now one of the most beautiful and picturesque ruins in the valley of the Mississippi.

FORT ROSALIE, at the Natchez, stood on the summit of a hill about six hundred and seventy yards from the shore of the river, and about one hundred and eighty feet above the surface of the water, overlooking a beautiful champaign country, and the river for many miles both up and down. It was an irregular pentagon, without bastions, and built of thick

\* From Historical Collections of Louisiana. By B. F. French, part iii., note, pp. 50, 51.

† Ibid, note, pp. 84-86.



plank. The buildings within consisted of a stone house, magazine, houses for the officers, and barracka for soldiers. The ditch surrounding it was partly natural and partly artificial, and in most places nineteen feet from the bottom to the top of the rampart. M. de Bienville named it Rosalie in honour of Madame la Duchesse de Pontchartrain. By the sliding and caving in of the banks of the river, its huge bastions became nearly all destroyed; still it is one of the most interesting and picturesque spots that the traveller can visit in the delta of the Mississippi.

The fort at **POINTE COUPÉE** was a quadrangle with four bastions, built with stockades, on the west bank of the Mississippi river.

**FORT ARKANSAS** was erected in 1685, about three leagues from the mouth of that river and about two hundred yards from the water side. It was built of stockades, and the interior sides of the polygon measured about one hundred and eighty feet long, mounted with cannon. The Arkansas, or Quapas Indians lived about three leagues above it, where the celebrated John Law had his concession, which he settled with Germans. After the failure of his great financial schemes the Germans deserted the settlement and located themselves on the Mississippi, about thirty miles above New Orleans, on small plantations, which has ever since borne the name of the German Coast.

**FORT CREVECOEUR**, afterwards called St. Louis, was built by De la Salle, in the country of the Illinois, on his first visit to that country. It was seated on the top of a steep bluff, about two hundred feet high, with a spacious esplanade, and the river washing its base. M. de la Salle likewise built a stockade fort at St. Bernard's Bay, Texas, in 1688, claiming possession and jurisdiction over all the country from the mouth of the Mississippi to the Rio Grande, or Rio Bravo del Norte, of Mexico.

**FORT ST. LOUIS DE CARLORETTE** was built in 1719, by the orders of M. de Bienville, on the right bank of Red River, in north latitude  $33^{\circ} 55'$ , as a sign of the jurisdiction of France in that part of Louisiana, since called Texas. The first old **FORT BILOXI** has been placed by Major Stoddard, in his work on Louisiana, on Perdido Bay, the ancient boundary line of the French and Spaniards, about twelve miles west of Pensacola Bay, where he says M. d'Iberville erected a fort with four bastions, on which he mounted twelve cannons, and where it is said some remains of it may still be seen. But be this true or not, M. d'Iberville, before he sailed for France in 1699, built a fort upon the north-east shore of the Bay of Biloxi, about fifteen miles north of Ship Island, of four bastions, and mounted with twelve cannons, (the remains of which are still to be seen), which was the sign of the jurisdiction of France from the Rio Perdido to the Rio Bravo del Norte, and appointed M. de Sauvolle its commander, who kept a journal or history of the colony up to the date of his death, and which is now printed for the first time in this work. The **BALIZE FORT**, at the mouth of the Mississippi River, was built about the same time on an island, and mounted with cannon to protect the French ships that anchored there, and to drive off the Spaniards. **FORT LOUIS DE MOBILE, OR CONDÉ**, was built upon the River Mobile, and below the town, and about fifteen or sixteen leagues from the fort on Dauphin Island. It was constructed of bricks, with four bastions mounted with cannons, after the manner of Vauban, with half moons, deep ditches, covered ways and glacis, with houses for the officers and barracks for the soldiers. The foundations of this fort are still to be seen, occupying a considerable space in the city of Mobile. Although this was the headquarters of the French Governor for many years, they were afterwards removed to New Orleans, on the banks of the Mississippi, which the French, and afterwards the Spanish, fortified after the manner of Vauban. A ditch was extended round the city of about eighteen feet in width, with ramparts of earth, and palisades nearly six feet high along the interior or inner side of them. Five large bastions were erected at proper distances, and likewise five intervening redoubts. The bastions were regularly constructed; each of them was furnished with a banquette, rampart, parapet, ditch, covered way, and glacis. The curtains were wholly formed with palisades at a small distance from each other, and were musket proof; they had a banquette within, and ditch and glacis without. A small redoubt, or ravelin, was placed in the centre of each bastion, and all the latter were of sufficient size to admit of sixteen embrasures—four in each face, three in each flank, and two in the gorge facing the city—the whole of which was mounted with heavy cannon; the south-west bastion with a counter-guard and traverses, and a small redoubt on the bank of the river. The two forts (St. Charles and Condé) at the angles facing the river, likewise mounted with heavy Spanish ordnance, constituted the defence of the city when Louisiana was ceded to the United States.

MEMORANDUM INTENDED TO SET FORTH THE IMPORTANCE OF THE COLONY OF LOUISIANA.  
AND THE NECESSITY OF CONTINUING ITS ESTABLISHMENT. BY M. BERNARD DE LA  
HARPE.\*

(Extracts.)

With respect to the lay of the lands, the longitude of Louisiana, up to the height of  $39^{\circ}$ , extends from the limits of New Mexico, that is to say, from  $275^{\circ}$  to the frontiers of New England in the environs of  $307^{\circ}$  of longitude; but this extent varies after passing  $38^{\circ}$  of latitude, because, beyond the polar height, we are entitled to extend westward as far as our discoveries may lead us.

The breadth of Louisiana is better ascertained. It can be run from  $29^{\circ}$  of latitude, which is that of the entrance of the river, up to  $42^{\circ} 30'$  which is the height of the Strait. This Province is exclusively situated between the fourth and the eighth zones (*climats*); and this accounts for the length of the days and the nights. Where they are the shortest, they scarcely exceed fourteen hours, thirty minutes; and, when they are the longest, not above fifteen hours, thirty minutes.

This position of Louisiana, well described on the map which has been prepared by the Sieur de la Harpe, renders it easy of comprehension, that the first benefit from this discovery has been communication from Canada with the Gulf of New Mexico, through a wild country of nearly five hundred leagues in extent; and, nevertheless, it has been very easy to establish this by the River Mississippi, which runs from north to south, and finds its exit in the Gulf of Mexico, and by the Rivers Ouabache and Illinois, which, taking their rise on the Canada side, empty themselves in the Mississippi.

The English have allied themselves to a great many savage nations of America, and daily contract fresh alliances with the Iroquois, the Charaquis, the Chavouanons, the Chicachas, the Cahuitas, the Alibamous, and many other nations bordering on Louisiana; where we have seen them push their trade even up to the Mississippi and the gates of the Mobile. If they had carried out their project of establishing themselves on the river of the Ouabaches, which takes its rise in the neighbourhood of New England, but a short space of time would elapse before they appeared and enlisted on their side the Illinois, the Miamis, the Octotata, the Foxes, the Sioux, and the other nations of Upper Canada. This would greatly prejudice New England, of which the Island of Cape Breton is a dependency, which is the only one where we can, with safety, fish for cod.

From Louisiana will be obtained skins of wild bulls, the wool of which can be turned to use. No difficulty need be experienced, since M. de Juchereau, Lieutenant-General of the jurisdiction of Mont Real, who, in 1702, had, with thirty-four Canadians, established a post on the Ouabache, in the name of a company, had collected there, in a short space of time, fifteen thousand skins of bulls, as detailed in the narration in the Historical Journal of the month of January, 1705.

From this colony will be obtained skins of fallow-deer, bear, red deer, and finer peltries than from Canada, because the upper part of the Mississippi River communicates with several northern nations who reside at too great a distance from the lakes by which the descent is effected towards the St. Lawrence River, and it is for the self-same reason that these skins of bulls cannot be obtained from Canada, as the Canadians have not pushed their trade so far as that. The Sioux savages and the Assinipolis are those who, by means of the Christinaux, carry the largest part of their finest peltries to the English at Hudson's Bay; but it would be easy to renew alliances with them, and to attract their trade by the Mississippi; because in order to go to Hudson's Bay, it is necessary to make a long journey through a country always frozen and without edibles, carrying their merchandize on their backs, whilst to trade with us, they would only have to descend the Mississippi in their canoes, as far as the entrance of the River Saint Pierre, where they would find a more genial climate, and a country with a

\* From Historical Collections of Louisiana. By B. F. French, part iii., note, pp. 113, 114, 116, 118. See note to p. 308, ante.



greater abundance of all sorts of things. But, in this case, it would be necessary to found establishments on the banks of this river, and adhere to the plan of the late M. de Sueur in the manner agreed on with M. L'Huilier, the farmer general.

EXTRACTS SHOWING THE VARIOUS ROUTES WHICH THE FRENCH HAD TO THE MISSISSIPPI, AND THE PERIODS THEY WERE USED.\*

(Extracts.)

*(Copy of a Representation of the Lords Commissioners for Trade and Plantations to the King, upon the state of His Majesty's Colonies and Plantations on the Continent of North America, dated September the 8th, 1721.*

The French territories in America extend from the mouth of the River St. Lawrence to the embouchure of the Mississippi, forming one continued line from north to south on the back of your Majesty's plantations, and although their garrisons, in many parts, are hitherto but very inconsiderable, yet as they have, by the means of their missionaries, debauched several of the Indian nations to their interest, your Majesty's subjects along the continent have the utmost danger to apprehend from this new settlement, unless timely care be taken to prevent its increase.

\* \* \* \* \*

From this lake [Erie] to the Mississippi they have three different routes. The shortest by water, is up the River Miamis, or Ouamis, on the south-west of Lake Erie, on which river they sail about 150 leagues without interruption, when they find themselves stopped by another landing of almost three leagues, which they call a carrying place, because they are generally obliged to carry their canoes over land in those places to the next river, and that where they next embark is a very shallow one called La Rivière de Portage; hence they row about 40 leagues to the River Oubach, and from thence about 120 leagues to the River Ohio, into which the Oubach falls, as the River Ohio does about 80 leagues lower into the Mississippi, which continues its course for about 350 leagues, directly to the Bay of Mexico.

There are likewise two other passages much longer than this, which are particularly picked down in Hennipen's map, and may be described in the following manner:—

From the north-east [west?] of Lake Erie to a fort on the Lake St. Clair called Pont Chart-rin, is about eight leagues sail. Here the French have a settlement, and often four hundred traders meet there. Along this lake they proceed about seven leagues further, and thence to the great Lake Huron about ten leagues; hence they proceed to the Straits of Michillimackinack one hundred and twenty leagues. Here is a garrison of about thirty French, and a vast concourse of traders, sometimes not less than 1000, besides Indians, being a common place of rendezvous. At and near this place the Outarwas, an Indian nation, are settled.

From the Lake Huron they pass by the Strait of Michillimackinack four leagues, being two in breadth, and of a great depth, to the Lake Illinois; thence one hundred and fifty leagues on the lake to Fort Miamis, situated on the mouth of the River Chigagoe; from hence came those Indians of the same name, viz: Miamis, who are settled on the forementioned river that runs into Erie.

Up the River Chigagoe they sail but three leagues to a passage of one-fourth of a league; then enter a small lake of about a mile, and have another very small portage; and again another of two miles to the River Illinois; thence down the stream one hundred and thirty leagues to Mississippi.

The next rout is from Michillimackinack on the Lake Illinois to the Lake de Puans, ninety leagues; thence to the River Paans, eighty leagues; thence up the same to a portage of about four miles before they come to the River Owisconsin; thence forty leagues to Mississippi.

These distances are as the traders reckon them, but they appear generally to be much overdone, which may be owing to those peoples coasting along the shores of the lakes and taking in all the windings of the rivers.

\* Colonial Hist. N. York. London Documents, Vol. V. pp. 620-2.

## MEMOIR OF BOUGAINVILLE\* ON THE STATE OF NEW FRANCE AT THE TIME OF THE SEVEN YEARS WAR (1757).†

(Extracts.)

## DETROIT.

Detroit is an important post ; it is the entrepôt of the southern forts, and communicates with the Illinois ; the lands there are fertile and of an easy cultivation, the sky beautiful and serene ; a beautiful climate ; almost no winter ; very little of snow ; animals winter in the fields, where they find their feed ; there are already two hundred habitations, or about that number, full of food and cattle, and which produce the meal for different post of the upper country (*les pays d'en haut*). This fort is situated on the shore of the river which separates Lake Erie from Lake Huron.

## MICHILLIMAKINAC.

If we follow the Grand River, Michillimakinac is at three hundred leagues from Montreal, and one hundred leagues and more from Detroit. This post is situated between Lake Michigan and Lake Huron. . . . The Governor-General receives generally from the voyageurs five hundred francs upon each canoe laden with merchandizes, and the proceeds thereof are distributed among the officers and the poor families. In ordinary times, six or seven hundred bundles (*paquets*) of furs are forwarded from the fort per annum.

## DETROIT ENTREPOT OF THE SOUTHERN POSTS.

The post of Detroit, entrepôt of the southern posts—known as Grosbourg—is situated between Lake Erie and Lake St. Clair. From the entrance of Lake Erie to Detroit, there is a distance of six leagues ; from Detroit to Lake St. Clair, two leagues ; from the outlet of this lake, which has seven leagues, to Lake Huron, there is a distance of eleven leagues. The site of the post is a beautiful one, the climate is pleasant, the atmosphere very healthy, the soil excellent and good for any productions ; the game is abundant. . . . On the north there are three leagues of land, inhabited by Frenchmen ; on the south there are two leagues and a half. . . . This post has a commanding officer, a major, etc. ; the garrison comprises men belonging to the companies detached from the marine. This post is worked by means of licenses (*congés*), whose price is generally five hundred francs, payable cash, and whose number is not determined. . . .

## MIAMIS POST.

The post of the Miamis, (established by Lieutenant Bellestre), is situated on the right shore of the river of that name, and has a fort built with palisade. . . . This fort is rented to the commanding officer for three years in consideration of a sum of twelve hundred francs per annum. He has the control of the fur trade ; the King delivers neither certificates nor presents to the Indians ; the former must bear those expenses, and, moreover, pay the salary of the interpreter ; he receives no gratuity. This post produces generally from two hundred and fifty to three hundred bundles of furs.

## OUYATANONS.

The post of Ouyatanons (established by Ensign Camet Bayeul) is situated on the right shore of the River Ouabache, or St. Jerome ; the fort is built with palisades. This

\* Louis Antoine de Bougainville, author of this memoir on Canada, was one of the most distinguished French officers in the war which resulted in the conquest of Canada. His "Memoir" was submitted to General Montcalm at the time it was written, and that officer testified to the correctness of the information it contained. Bougainville attained, on his return to France, a high rank in the navy, of which he became Vice-Admiral in 1790.

† The French original is given in "*Relations et Mémoires Inédits*," &c., par Pierre Margry, Paris, 1867.



post is on a same footing with that of the Miami's; the commanding officer is its farmer, and pays on that account twelve hundred francs annually. . . . This post, and those that are dependent upon it, produce generally from four hundred to four hundred and fifty bundles of furs per annum.

#### VINCENNES.

The Post of Vincennes, a pretty village, subject to New Orleans, which sends there a commandant. It has three horse-mills; and contains seventy-five inhabitants, who labour and reap corn.

#### ILLINOIS POST.

The post of the Illinois, whose principal *entrepôt* is the Fort of Chartres, is situated on the Mississippi River. There are in all six companies of garrison sent from New Orleans, besides the commanding officer. This post is worked by means of licenses, whose price is six hundred francs per canoe.

#### PIMITEOUI.

There is another post on the Illinois River, where resides a commanding officer in a fort called Pimiteoui. The tribes which trade there are the Peorias. Seven hundred men produce two hundred bundles of furs.

#### KANSÉS.

In ascending the Missouri River we meet the village of the Kansés. We have there a commanding officer appointed by New Orleans, as well as those of Pimiteoui and Fort de Chartres. This post produces one hundred bundles of furs.

#### FORT DUQUESNE.

The fort Duquesne is situated on the left shore of Belle-Rivière, at the confluence of the river Malongueule.\* This post is worked by means of licenses, which are distributed free in order to encourage the traders to forward furs there. It produces generally, per annum, from two hundred to two hundred and fifty bundles of furs.

#### FORT OF THE RIVIÈRE AU BOEUF.

The Fort of the Rivière au Boeuf, a square fort built with palisades, is situated at thirty leagues from Fort Machault, on the river of which it bears the name. This post is a necessary *entrepôt* for the Fort Duquesne, but it should be rebuilt in order to be protected against any surprise; this post is not a trading one. The commanding officer receives a salary of 1,000 francs.

#### FORT OF LA PRESQU' ISLE.

La Presqu' Isle is a square fort, built with squared timbers, situated at seven leagues from Rivière au Boeuf and Niagara, on Lake Erie, almost at the entrance of a large bay with a length of about one league and a half, and a width of one half league. There are at the post a commanding officer, who receives a salary of 1,000 francs, and from fifty to sixty men garrisoned. This post is for the fur trade in a same position with the two preceding ones; it is important as a necessary *entrepôt*, and the first one from Niagara to Belle-Rivière.

#### NIAGARA.

Niagara can now be considered as a strong place; it is situated at the head of Lake Ontario to the South, at the confluence of Niagara River. This post is the key of the upper region (*les pays d'en Haut*). The soil being most fertile, the climate mild, the game and the fishing abundant, we should attempt to establish there a town, or at least a village. . . .

\* Name given by the Canadians to Monongahela River.

The King controls the fur trade of this post, and consequently pays the salaries of the commanding officer and of his subalterns, but the trade is badly managed. The post produces generally per annum from 250 to 300 bundles of furs.

#### TORONTO,

Situated to the north of Lake Ontario, opposite Niagara, has been established in order to prevent the northern Indians from going to trade at Choueguen. Choueguen existing no more, this post becomes useless. The King controls its trade. It produces about 150 bundles of furs.

#### FRONTENAC.

Frontenac or Katarakoui, a fort in bad condition, situated at the entrance of Lake Ontario; had Choueguen not been destroyed, it would have been necessary to repair it. It has a commanding officer, with some officers under his orders, and . . . soldiers garrisoned. This post is managed by the King, who consequently defrays all its charges. It can produce annually from twenty to thirty bundles of furs.

#### LA PRÉSENTATION.

Mission for the Indians of the Five Nations, established by the Revd. M. Picquet, on the right shore of the River St. Lawrence, at . . . leagues from Montreal. There are now about one hundred Indians of the Five Nations assembled under his care. It has a fort in bad condition, built with palisades, with a commanding officer and a small garrison. This fort is worked for the King. It produces generally from thirty to forty bundles of furs per annum.

#### BAIE DES PUANTS.

The post of Baie des Puants has been established by Monsieur de Rigaud. It is farmed in consideration of nine thousand francs; every expense on account of the King has been suppressed; the King delivers neither presents nor certificates, and does not pay the salaries of the interpreters; the farmers must bear all those expenses. The commanding officer (Lieut. Control) is interested in the farming, and manages the trade for his own account as well as for that of his associates; he receives a gratuity of two thousand francs. The post produces usually from five to six hundred bundles of furs per annum.

#### RIVER ST. JOSEPH.

The fort of River St. Joseph (established by Monsieur le Verrier) is situated on the right of the river of that name, at twenty leagues from her mouth in Lake Michigan. This post is on a same footing with the one at Baie des Puants; the commanding officer is its farmer in whole or in part, according to the pleasure of the Governor-General; all the expenses rest upon him; he receives a gratuity of two thousand francs. . . . It can produce four hundred bundles of furs.

#### LA MER D'OUEST.

*La mer d'Ouest* is a post that includes the forts St. Pierre, St. Charles, Bourbon, de la Reine, Dauphin, Poskoia [and] des Praries, all of which are built with palisades that can give protection but against the Indians.

#### FORT ST. PIERRE

Is situated on the left shore of Lake Lekamamionen or Lake la Pluie (Rainy Lake), at 500 leagues from Michillimakinac and 300 from Kaministigoyia, on les Trois Rivières (Three Rivers) to the north east of Lake Superior,

#### FORT ST. CHARLES

Is situated at sixty leagues from the Fort of St. Pierre, on a peninsula that goes far into the Lake des Bois,



## FORT BOURBON

Is at one hundred and fifty leagues from the preceding one, and at the entrance of Lake Ouinipeg.

## FORT LA REINE

Is situated on the right shore of the Assiniboels River, at sixty leagues from Fort Bourbon. This country is composed of vast prairies; it is the route to go through the upper part of the Missouri.

## FORT DAUPHIN.

At eighty leagues from the preceding one, on the River *Minaughenacheguekie*, or Eau Trouble.

## FORTS POSKOIA\* AND DES PRAIRIES.

Fort Poskoia is built on the river of that name, at one hundred and eighty leagues from the preceding one; it takes ten days from this fort to reach Nelson River. The Fort des Prairies is at eighty leagues from Fort Poskoia in the upper part of the river of that name. This post has been farmed in consideration of a sum of eight thousand francs; the commanding officer is its farmer, with a fourth interest in its trade. The Indians who trade there are the Cristinaux and the Assiniboels; these two tribes form each twelve villages, inhabited respectively by two hundred men. This post produces usually from three to four hundred bundles of furs; we must take into account also fifty to sixty Rougis or Paus slaves. . . . This is the only post where this traffic takes place.

## NEPIGONS.

Post established to the north of Lake Superior; the commanding officer is its farmer and pays for that privilege about 4,000 francs; it includes the Lake à la Carpe, situated. . . The Indians who trade at the post are the Saulteux; this tribe, one of the most numerous in these regions, is wandering, plants nothing, and subsists upon nothing but game and fishing. The post produces generally every year from eighty to one hundred bundles of fur.

## CHAGOAMIGON POINT.

The post of Chagoamigon, established by Monsieur de Beaubassin, is situated. . . This post is farmed in consideration of a sum of eight thousand francs, to M. de St. Luc there were neither presents nor certificates to give prior to the year 1758; the interpreter only was to be paid. The commanding officer receives a gratuity of three thousand francs. The Indians who trade at the post are the Saulteux. Generally, the post produces each year about two hundred and fifty bundles.

## KAMANISTIGOYA.

The fort of Kamanistigoya or Les Trois Rivières has been established by Monsieur de Refentigny. It has been farmed to the late M. Cugnet in consideration of a sum of four thousand francs; having sub-farmed the same to M. Toussaint Portier, the Crown has granted him the surplus in order to indemnify him of the loss of the licenses of the Saint Maurice. The King bears no other expense than a gratuity of two thousand francs to the commanding officer; there are neither presents nor certificates; the farming of this fort will expire in 1758. The Indians who trade there are the Saulteux. The fort produces annually from sixty to seventy bundles.

\* Name then given to Saskatchewan River.

## MICHIPICOTON.

Post situated to the north-east of Lake Superior, the one at Kamanistiguia being on the north-west. The Saulteux trade at this post. It produces from fifty to sixty bundles of furs.

## SAULT STE. MARIE.

Fort built with palisades, situated on the strait which unites Lake Superior to Lake Huron. It has been established in 1750. The fur trade was granted gratis to the commanding officer in order to promote the settlement. The King gives 400 francs of gratuity taken on the proceeds of Michilimakinac. The Indians who trade there are the Saulteux. The post produces annually one hundred bundles. M. de Bourne and M. de Refentigny have obtained its possession by way of grant, as an hereditary seigniory.

## TEMISCAMINGUE.

Post situated on a lake of that name, and farmed in consideration of the sum of 7,000 francs; the Indians call the place where stands the fort, *Aubatswenack*. The tribes that trade there are the Tetes de Boule, or Gens des Terres and the *Namcosakin*, who reside towards Hudson's Bay.

## TABITIBI

Is a post dependent upon Temiscamingue, situated at 120 leagues from the preceding Fort, towards Hudson's Bay; each post may contain one hundred men; they subsist on game and fishing; they sow no grain, and have no village. All this country is mountainous and not at all fertile. The post produces about 120 bundles of furs.

## FUR TRADE AND LICENSES (Congés.)

In almost every post, the house occupied by the commanding officer, being surrounded with palisades, is honoured with the name of Fort. People in Canada call forts (*comptoris*) some public store, where the fur trade with the Indians takes place, who, in exchange for their peltries, receive the goods wanted by them. In earlier times these forts were sold by auction, and the traders could obtain their possession, but the Governor-General disposes of them now for his favourites, with the approbation of the Court. The most important are La mer d'Ouest, la Baye, St. Joseph, Nepigon, and Michilimakinac. The post of Detroit is granted to no one; the system of licenses (*congés*) prevails there.

There are posts where the fur trade goes on for the benefit of the King, such as Toronto, Frontenac, Niagara, Petit Portage, Presqu'Isle, Rivière au Boeuf, Fort Machault, Fort Duquesne. The traffic in those posts is not a profitable one for the King, who always loses money in this way; he keeps it only to preserve the alliance of the Indians; the storekeepers and the commanding officers know, however, how to enrich themselves.

We call *congé* the licenses or permits that are granted by the Governor-General for a canoe laden with six thousand pounds of merchandizes intended to be sold in one of the posts indicated; such a license costs fifty pistoles.

The Governor-General, who is at liberty to give more or less, applies these funds to the maintenance of the poor families of the officers. Account is given to the King of only twenty-two licenses; the Governor sometimes gives as many as forty; the half of the fifty pistoles goes to the King, and the other half is at the disposal of the Governor for gratuities.

The post of La Baye\* has given in three years to MM. Rigaud and Marin three hundred and twelve thousand francs, and at the time of M. Marin, the father, who was associated with MM. de la Jonquière and Bigot, it produced more than one hundred and fifty thousand francs per annum, all expenses paid.

## TRADING POSTS.

*Northern Posts*.—1. Themiskaming (no commandant there); 2. Michillimakinac; 3.

\* Green Bay now.



La Baye ; 4. La Mer d'Ouest ; 5. Sault Ste. Marie (the seigniory and the exclusive trade are granted in perpetuity to M. Debonne or his heirs) ; 6. Chacumigo ; 7. Kamanistigouya ; 8. Nepigon ; 9. Michipicaton (no commandant) ; 10. St. Joseph ; 11. Illinois river (no commandant has been yet appointed for that post.) The General sells licenses to the traders in order to allow them to trade with the Indians.

*Southern Posts.*—La Presentation, Frontenac, Toronto, Niagara, (the small fort of Niagara,—the Indian trade is for the King's benefit) ; Detroit (Licenses are sold to the traders.) The Miamis, sixty leagues above Detroit ; Ouyatanons, sixty leagues above Miamis, on Ouabache river ; Presqu'Isle ; River au Boeuf ; Fort Duquesne ; Fort Machault (the trade is controlled by the King.) . . .

#### POST OF THE WESTERN SEA. (*Mer de l'Ouest.*)

The post of the Western Sea is the most advanced on the north side ; it is situated amidst many Indian tribes with which we trade, and which have intercourse also with the English. Towards Hudson's Bay, we have there seven forts built of stockades, trusted, generally, to the care of one or two officers, seven or eight soldiers, and eighty *engagés*, Canadian. We can push further the discoveries we have made in that country, and communicate even with California.

#### OBSERVATIONS ON THE TRADE, VIEWS AND POLICY OF THE NORTH WEST COMPANY, AND THE NATIONAL OBJECTS CONNECTED WITH THEIR COMMERCE, AS IT INTERESTS THE GOVERNMENT OF THE UNITED STATES. 1806.

(From "*Exploratory Travels through the Western Territories of North America*," by Zebulon Montgomery Pike.\*)

(Extracts.)

The fur trade in Canada has always been considered as an object of first importance to that colony, and has been cherished by the respective Governors of that Province, by every regulation in their power, under both the French and English Administrations. The great and almost unlimited influence the traders of that country had acquired over the savages, was severely felt, and will long be remembered by the citizens on our frontiers.—(p. 138-9.)

Every attention was paid by the Cabinet of St. James, in our Treaty with Great Britain, to secure to their Canadian subjects the privilege of the Indian trade within our territories ; and with what judgment they have improved the advantages they obtained, time will soon unfold.—(p. 139.)

In the year 1766, the trade was first extended from Michillimackinac to the north-west by a few desperate adventurers, whose mode of life on the voyage, and short residence in civil society, obtained for them the appellation of *Coueurs des Bois*. From this trifling beginning arose the present North-West Company ; who, notwithstanding the repeated attacks made on their trade, have withstood every shock ; and are now, by the coalition of the late X. Y. Company, established on so firm a basis as to bid defiance to every opposition that can be made by private individuals. By a late purchase of the King's posts in Canada, they extended their lines of trade from Hudson's Bay to the St. Lawrence, up that river on both sides to the lakes, from thence to Lake Superior,—at which place the North-West Company have their head-quarters,—from thence to the source of Red River and on all its tributary streams, through the country to the Missouri, through the waters of Lake Winipic to the Saskatchewan, on that river to its source, up Elk River to the Lake of the Hills, up Peace River to the Rocky Mountains, from the Lake of the Hills up Slave River to the Slave Lake ; and this year they have despatched a Mr. Mackenzie on a voyage of trade and discovery down Mackenzie's River to the North Sea ; and also a Mr. McKay to cross

\* An American Officer and Traveller, born 1799. In 1805 he set out to explore the sources of the Mississippi, and subsequently visited the interior of Louisiana. He rose to the rank of Brigadier-General, in the war of 1812, and was killed during the attack upon York, (now Toronto,) in 1813.

the Rocky Mountains, and proceed to the Western Ocean with the same objects. They have had a gentleman by the name of Thomson making a geographical survey of the north-west part of the continent, who for three years, with an astonishing spirit of enterprise and perseverance, passed over all that extensive and unknown country. His establishment, although not splendid, (the mode of travelling not admitting it), was such as to allow of the most unlimited expenses in everything necessary to facilitate his inquiries; and he is now engaged in digesting the important results of his undertaking. I find from the observations and suggestions of Mr. Thompson, that when at the source of the Mississippi, it was his opinion the line of limits between the United States and Great Britain must run such a course from the head of the Lake of the Woods as to touch the source of the Mississippi; and this I discovered to be the opinion of the North-West Company, who, we may suppose, or reasonably conclude, speak the language held forth by their Government. The admission of this pretension will throw out of our territory all the upper part of Red River, and nearly two-fifths of the territory of Louisiana; whereas if the line is run due west from the head of the Lake of the Woods, it will cross Red River nearly at the entrance; and, it is conjectured, strike the Western Ocean at Birch Bay, in Queen Charlotte Sound. These differences of opinion, it is presumed, might be easily adjusted between the two Governments at the present day; but it is believed that delays, by unfolding the true value of the country, may produce difficulties which do not at present exist. The North-West Company have made establishments at several places on the south side of Lake Superior, and at the head waters of the rivers Sauteaux and St. Croix, which discharge themselves into the Mississippi. The first I met with on the voyage up, was at lower Red Cedar Lake, about one hundred and fifty miles above the Isle de Corbeau, being on the eastern side of the river, and distant therefrom six miles. It is situated on the north point of the lake, and consists of log buildings, flanked by picketed bastions on two right angles. The next establishment I met with was situated on Sandy Lake.—(p. 140).

The fort at this place is situated on the south side of the lake near the east end, and consists of a stockade of one hundred feet square with bastions, and the south-east and north-west angles pierced for small arms. The pickets are squared on the outside, and round within, of about one foot in diameter, and are thirteen feet above ground. There are three gates. The principal one fronts the lake on the north, and is ten feet by nine; the one on the west, six feet by four; the one on the east, six feet by five; as you enter by the main gate you have on the left a building of one story twenty feet square, the residence of the superintendent; opposite to this house on the left of the east gate is a house twenty-five feet by fifteen, the quarters of the men; on entering the west gate you will find the store-house on the right, thirty feet by twenty, and on your left a building, forty feet by twenty, which contains rooms for clerks, a work-shop and a provision store.—(p. 141.)

On the west and north-west is an enclosure of about four acres picketed in, in which last year they raised four hundred bushels of potatoes, cultivating no other vegetable; in this enclosure is a very ingeniously constructed vault to contain the potatoes, but which likewise has secret apartments to conceal liquors, dry-goods, etc.

Midway between Sandy Lake and Leech Lake is a small house worthy of notice. On the south-west side of the latter lake from the outlet of the Mississippi, stand the headquarters of the Fond du Lac department.

The fort is situated on the western side of the lake in  $47^{\circ} 16' 13''$  north latitude; it is built near the shore on the declivity of a rising ground, having an enclosed garden of about five acres on the north-west. It is a square stockade of one hundred and fifty feet, the pickets being fifteen feet in length, three feet under, and thirteen above ground, and are bound together by horizontal bars, each ten feet long; pickets of ten feet are likewise driven into the ground on the inside of the work opposite the apertures between the large pickets. At the west and east angles are square bastions pierced for fire-arms. The main building in the rear fronting the lake, is sixty feet by twenty five, one-and-a-half stories high, the west end of which is occupied by the director of the Fond du Lac department: he has a hall eighteen feet square, bed-room and kitchen, with an office. The centre is a trading shop of twelve-and-a-half feet square with a bedroom in the rear of the same dimensions; the east end is a large store, twenty-five feet by twenty, under which there is an ice house well filled; the loft extends over the whole building, and contains bales of goods, packs of peltries, also chests containing wild rice; besides the ice-house, there are cellars under all the other parts of the building. The door and window-shutters are musket proof.—(p. 142.)



On the western side is a range of buildings, fifty-four by eighteen feet, fronting the parade, the first end of which is a cooper's shop, eighteen feet by fourteen, with a cellar; adjoining to which is a room called the Indian Hall (expressly for the reception of the Indians, and in which the chiefs who met me in council were entertained). In this hall are two closed bunks for interpreters; its dimensions are twenty-two feet by eighteen. Adjoining to this is a room, eighteen feet square, for the clerks (in which my small party were quartered); under both of the latter rooms are cellars. On the eastern side is a range of buildings fifty feet by eighteen, which has one room twenty feet, and one of fifteen feet, for quarters for the men; also a blacksmith's shop of fifteen feet, which is occupied by an excellent workman. On the left of the main gate, fronting the river, is a flag-staff of sixty feet in height.

They intend building a small block-house over the main gate fronting the lake, to place a small piece of artillery in. There are likewise gates on the north and east flanks, of about ten feet by eight.

Here resides the director of this department. This department brings in annually forty canoes, and it appears by a calculation made by a gentleman of veracity and information, who has been eighteen years in the Indian trade, and in the habit of importing goods by Michillimackinac, that the annual amount of duties would be about thirteen thousand dollars. The lower Red River, which I conceive to be within our territory, would yield about half that sum, viz., six thousand five hundred; and the Hudson's Bay Company servants, who import by the way of Lake Winipic, six thousand five hundred more.—(p. 143.)

Thus is the United States defrauded annually of about twenty-six thousand dollars.

From my observations and information, I think it will be an easy matter to prevent the smuggling of the Fond du Lac department, by establishing a post with a garrison of one hundred men, and an office of the customs near the mouth of the river St. Louis, where the Fond du Lac department must enter. This is at present the distributing point, where the Company have an establishment, and the goods, on being received from Kamanitiquia, are embarked for their different destinations. That point also commands the communication with Sandy Lake, Leech Lake, Red Lake, &c., &c. I am also of opinion that the goods for Red River (if it is within our boundary) would enter here, in preference to being exposed to seizure. It is worthy of remark that the charter of the Hudson's Bay Company extend to all its waters; and if the British Government conceive they have authority to make such a grant, they must certainly claim the country therein specified, which would extend far south of the west line from the head of the Lake of the Woods. The North-West Company were about to push their trade down the Mississippi until they should meet the traders of Michilimackinac, but I gave them to understand this could not be permitted.

Z. M. PIKE.

*First United States Regiment of Infantry.*

*To HUGH MCGILLIS, Esq., Proprietor and Agent of the North-West Company, established at Fond du Lac.\**

NORTH-WEST ESTABLISHMENT ON LAKE LEECH,

February, 1806.

SIR,—As a proprietor of the North-West Company and director of the Fond du Lac department, I conceive it my duty as an officer of the United States (in whose territory you are) to address you solely on the subject of the many houses under your instructions. As a member of the greatest commercial nation in the world, and of a company long renowned for their extent of connection and greatness of views, you cannot be ignorant of the rigour of the laws of the duties of imports of a foreign power.

Mr. Jay's treaty, it is true, gave the right of trade with the savages to British subjects in the United States territories, but by no means exempted them from paying the duties, obtaining licenses, and subscribing to all the rules and restrictions of our laws. I find your

\* Pike's *Exploratory Travels*, p. 144.

establishments at every suitable place along the whole extent of the south side of Lake Superior to its head, from thence to the source of the Mississippi, down Red River, and even extending to the centre of our newly acquired territory of Louisiana, in which it will yet probably become a question between the two governments if our treaties will authorize the British subjects to enter into the Indian trade on the same footing as in the other parts of our frontiers, this not being an integral part of the United States at the time of the said treaty. Our traders to the south on the Lower Mississippi, complain to our government with justice, that the members of the North-West Company encircle them on the frontiers of our north-west territory, and trade with the savages upon superior terms to what they can afford, who pay the duties of their goods imported from Europe, and subscribe to the regulations prescribed by law: these representations have at length attracted the attention of our government to the object in question, and with an intention to do themselves as well as their citizens justice, they the last year took some steps to ascertain the facts, and make provision against the growing evil. With this, some geographical, and also local objects in view, was I despatched with discretionary orders, with a party of troops to the source of the Mississippi. I have found, sir, your commerce and establishments extending beyond our most exaggerated ideas, and in addition to the injury done our revenue by the evasion of the duties, other acts which are more particularly injurious to the honour and dignity of our government. The transactions alluded to are, the presenting medals of his Britannic Majesty, and flags of his government, to the chiefs and warriors resident in the territory of the United States. If political subjects are strictly prohibited to our traders, what would be the ideas of the executive to see foreigners making chiefs and distributing flags, the standard of a European power? The savages being accustomed to look on that standard which has been the only prevailing one for years, as that which alone has authority in the country, it would not be in the least astonishing to see them revolt from the limited subjection which is claimed over them by the American Government, and thereby be the cause of their receiving chastisement, although necessary, yet unfortunate, as they have been led astray by the policy of the traders of your country. I must likewise observe, sir, that your establishments, if properly known, would be looked on with an eye of dissatisfaction by our government, for another reason, viz., there being so many furnished posts. In case of a rupture between the two powers, the English Government would not fail to make use of these as places of deposit for arms, ammunition, etc., to be distributed to the savages who joined their arms, to the great annoyance of our territory, and the loss of the lives of many of our citizens. Your flags, sir, when hoisted in enclosed works, are in direct contradiction to the laws of nations, and their practice in the like cases, which only admits of a foreign flag being expanded on board of vessels, and at the residence of ambassadors or consuls.

I am not ignorant of the necessity of your being in such a position as to protect you from the sallies of drunken savages, or the more deliberate plans of the intended plunderer, and under these considerations have I considered your stockades. You, and the Company to which you belong, must be conscious from the foregoing statement, that strict justice would demand, and I assure you the law directs under similar circumstances, a total confiscation of your property, personal imprisonment, and fines; but having discretionary instructions, and no reason to think the conduct above noticed was dictated through ill will or disrespect to our Government, and conceiving it in some degree departing from the character of an officer to embrace the first opportunity for executing those laws, I am willing to sacrifice my prospect of private advantage, conscious that the Government looks not to interest but to its dignity in the transaction. I have therefore to request of you assurances on the following heads, which, setting aside the chicanery of law, as a gentleman you will strictly adhere to, viz.: That you will make representations to your agents at your head quarters on Lake Superior, of the quantity of goods wanting the ensuing spring for your establishment in the territory of the United States, time sufficient, or as early as possible, for them to enter them at the Custom House of Michillmackinac, and obtain a clearance and license to trade in due form, and that you will give immediate instruction to all your party in the said territory under your direction, at no time and under no pretence whatever, to hoist, or suffer to be hoisted, the English flag: if you conceive a flag necessary, you may make use of that of the United States,—it is the only one which can be admitted; that you will on no future occasion present a flag or medal to an Indian, hold Councils with them on political subjects, or others foreign from that of trade; but on



being applied to on those heads, will refer them to the American Agents, informing them that they are the only persons authorized to hold Councils of a political nature with them. There are many other subjects, such as the distribution of liquor, etc., which would be too long to be treated of in detail ; but the Company will do well to furnish themselves with our laws, regulating the commerce with the savages, and regulate themselves in our territories accordingly. I embrace this opportunity to acknowledge myself and command under similar obligations to yourself and agents for the assistance which you have rendered us, and the polite treatment with which I have been honoured. With sentiments of high respect for the establishment and yourself,

I am, Sir,

Your most obedient servant,

Z. M. PIKE.

*To LIEUTENANT PIKE, First Regiment United States Infantry.\**

LEECH LAKE, 15th February, 1806.

SIR,—Your address, presented on the 6th instant, has attracted my most serious consideration to the several objects of duties on importations ; of presents made to and our consultations with the Indians ; of enclosing our stores and dwelling houses ; and finally, of the custom of hoisting the British flag on the territory belonging to the United States of America. I shall at as early a period as possible present the Agents of the North West Company with your representations regarding the payment of the duties on the importation of goods to be sent to our establishments within the boundaries of the territories of the United States, as also their being entered at the Custom House at Michillimackinac ; but I beg to be allowed to present for consideration, that the major part of the goods necessary to be sent to the said establishment for the trade of the ensuing winter, are now actually in our stores at Kamanitigua, our headquarters on Lake Superior, and that it would cause us vast expense and trouble to be obliged to convey those goods to Michillimackinac, to be entered at the Custom House office : we therefore pray that the word of a gentleman with regard to the quantity and quality of the said goods to be sent to the said establishment, may be considered as equivalent to the certainty of a Custom House register. Our intention has never been to injure your traders, paying the duties established by law, and hope those representations to your government respecting our concerns with the Indians may have been dictated with truth, and not exaggerated by envy, to prejudice our interests, and throw a stain upon our character which may require time to efface from the minds of a people to whom we must ever consider ourselves indebted for the lenity of procedure, of which the present is so notable a testimony. The inclosures to protect our stores and dwelling houses from the insults and barbarity of savage rudeness, have been erected for the security of my property and person, in a country till now exposed to the wild will of the frantic Indians. We never formed the smallest idea that the said inclosures might ever be useful in the event of a rupture between the two powers, nor do we now conceive that such poor shifts will ever be employed by the British Government : in a country overshadowed with wood, so adequate to every purpose, forts might in a short period of time be built far superior to any stockades we may have occasion to erect.

We were not conscious, sir, of the error I acknowledge we have been guilty of, by exhibiting to view on your territories any standard of Great Britain. I will pledge myself to your government, that I will use my utmost endeavours, as soon as possible, to prevent the future display of the British flag, or the presenting of medals, or the exhibiting to public view any other mark of European power, throughout the extent of the territory known to belong to the dominion of the United States. The custom has long been established, and we innocently, and inoffensively, (as we imagined), have conformed to it till the present day.

Be persuaded that on no consideration shall any Indian be entertained on political subjects, or on any affairs foreign to our trade, and reference shall be made to the American

\* Pike's *Exploratory Travels*, p. 146.

agents should any application be made worthy such reference. And be assured that we, as a Commercial Company, must find it ever our interest to interfere as little as possible with affairs of Government in the course of trade, ignorant as we are, in this rude and distant country, of the political views of nations.

We are convinced that the inestimable advantages arising from the endeavours of your Government to establish a more peaceful course of trade in this part of the territory belonging to the United States, are not acquired through the mere liberality of a nation, and are ready to contribute to the expense necessarily attending them. We are not averse to pay the common duties established by law, and shall ever be ready to conform ourselves to all rules and regulations of trade that may be established according to common justice.

I beg leave to be allowed to say that we have reason to hope that every measure will be adopted to secure and facilitate the trade with the Indians, and these hopes seem to be confirmed beyond the smallest idea of doubt, when we see a man sent among us who, instead of private consideration to pecuniary views, prefers the honour, dignity, and lenity of his Government, and whose transactions are in every respect so conformable to equity.

When we behold an armed force ready to chastise or protect, as necessity or policy may direct, we know not how to express our gratitude to that people whose only view seems to be to promote the happiness of all—the savages that rove over the wild confines of their domain not excepted.

It is to you, Sir, we feel ourselves most greatly indebted, whose claim to honour, esteem and respect will ever be held in high estimation by myself and associates. The dangers and hardships by your fortitude vanquished, and by your perseverance overcome, are signal, and will ever be preserved in the annals of the North West Company. Were it solely from the consideration of those who have exposed their lives in a long and perilous march, through a country where they had every distress to suffer, and many dangers to expect, (and this with a view to establish peace in a savage country), we should think ourselves under the most strict obligations to assist them; but we know we are in a country where hospitality and gratitude are to be esteemed above every other virtue, and therefore have offered for their relief what our poor means can allow.

And, Sir, permit me to embrace the opportunity to testify, that I feel myself highly honoured by your acceptance of such accommodations as my humble roof could afford.

With great consideration and high respect for the Government of the United States, allow me to express my esteem and regard for you.

I am, Sir,

Your most obedient servant,

H. M'GILLIS,

*of the North-West Company.*

#### MEMOIR OF M. DE DENONVILLE ON THE FRENCH LIMITS IN NORTH AMERICA.\*

Memoir explanatory of the Right the French have to the property of the countries of North America, especially the south part of Acadia, from Pantagouët to the River Kinibeky; of the countries of the Iroquois and Hudson's Bay, with the posts occupied there by them and by the English, sent to the Court for its information by the Marquis de Denonville, the King's Governor and Lieutenant-General in New France. Done at Versailles, the 8th March of the present year [1688].

Signed,

LOUIS,  
COLBERT.

Sieur de Champlain has treated this question very fully in his book intituled : *Les Voyages de la Nouvelle France occidentale, dite Canada, par le Sr. de Champlain. A Paris, chez Pierre Le Mer, dans la grande salle du Palais, 1632.*

At p. 200, towards the end of that work, Sieur de Champlain makes a sort of dissertation which clearly decides the question. He gives it this title:—

“Abstract of the discoveries of New France, as well as what we, as of what the English

\* N. Y. Hist. Doc., Vol. IX. p. 377.



have discovered from the Virginias to Davis Strait, as of what they and we can pretend to, according to the report of the Historians who have written thereupon, as I report below, which will enable every one to judge dispassionately of the whole."

If a desire exist, then, to treat this matter thoroughly, and to be perfectly informed of the right of the French and of the English, it is necessary only to read that Abstract of *Sieur de Champlain*; everything will be found very well examined, and it will appear that the French have taken possession of all the countries from Florida to Cape Breton, prior to any other Christian Prince.

For, to quote only a few words of what that Abstract contains, it will be seen there :—

That in 1504, the Bretons and the Normands first discovered the Great Bank and Newfoundland, as can be seen in the History of *Wiflet Sieur de Magin*, printed at Douay.

In 1523, *Jean Varason*, in virtue of a commission from *Francis I.*, took possession of the territory beginning at the 33rd degree of latitude, as far as the 47th.

In 1535, *Gibault* and *Landonniere*, having gone to Florida by authority of *King Charles IX.*, to inhabit and cultivate that country, founded Carolina there in the 35th and 36th degrees.

But particularly in 1603 and following years, *Sieur de Champlain* being in Canada, was in command of that colony, and in 1609, went with two other Frenchmen into Lake Champlain, of which he took possession in the name of *King Henry IV.*, and called it after himself; and he relates in his book of voyages, that after he had discovered Lake Champlain, he was as far as the country of the Iroquois.

In the years 1611 and 1612, he ascended the Grand River as far as Lake Huron, called the Fresh Sea; he went thence to the *Petun Nation*; next to the *Neutral Nation* and to the *Macoutins*, who were then residing near the place called the *Sakiman*; from that he went to the *Algonquin* and *Huron* tribes, at war against the Iroquois. He passed by places he has self described in his book, which are no other than *Detroit* and *Lake Erie*.

And as it is an established custom and right recognised among all Christian nations, that the first discoverers of an unknown country not inhabited by Europeans, who plant the arms of their Prince there, acquire the property of that country for that Prince in whose name they have taken possession of it.

On that principle, and no author being found who states that the English had taken possession of the countries of Canada or discovered them, unless subsequently to the French, they having come to the countries of Canada, Virginia and Florida only in 1594, whilst the French took possession of them in 1504, 1523 and 1564, which fact the English cannot question, inasmuch as *Jacques Cartier* visited, in 1534, all the coasts of that country; his relations and those of *Alphonse Xaintongois* and *Verason* attest it, and are inserted at length in the collections of divers accounts which *Purchas* and *Hackluit*, Englishmen, have published in London, in their language. And it is notorious that *Sieur Champlain* did for many years prosecute the fur trade at the place where Boston now stands, and further down towards the north or east, along the same coast, during more than ten years, before any English or Dutch inhabited that quarter.

The foundation of the English pretences is this :—About the year 1594, some Englishmen being on the coasts of Florida, arrived at a place called *Mocosa*, and which they since named Virginia. *James*, King of England, granted them for their encouragement, great privileges, among others to extend their right from the 33rd degree to the 45th or 46th. The Royal Charter was issued on the 10th of April, 1607, in these words: *Potestatem facimus occupandi possidendique tractus omnes ad gradum usque quadragesimum quintum ita si a Christianorum principe nulli teneantur.*

This is all the foundation the English have; it is manifestly null, because it is stated in the above Letters Patent of *King James*:—We grant them all the countries up to the 45th degree, not possessed by any Christian Prince. Now, it is indubitable that at the date of the aforesaid grant, the King of France was in possession of at least up to the 40th degree of latitude, the place where the Dutch since settled.

And in 1603, *Commander de Chastes* was *Lieutenant-General* for the Most Christian King in New France from the 40th to the 52nd degree, and it is even certain, as already stated, that, as early as the year 1523, *Jean Varason* took possession of all the countries from the 33rd to the 47th degree.

In 1656,\* *M. de Lauzon*,\* the King's\* Governor\* and *Lieutenant-General*\* in New France,

sent, at the solicitation of the Iroquois themselves, into their country, to a place called Ganentaa, as many as sixty Frenchmen, including a garrison of twelve soldiers under the command of Sieur Dupuis, who caused to be constructed at that place a royal fort, whither were conveyed four pieces of bronze cannon, which have remained there, and will be found again by the French who were there at the time, and are still living. This is proved by said Sieur Dupuis' commission of the 15th May, 1656—App. D.; by the discharges (*congés*) granted by said Sieur Dupuis to some of the soldiers of the garrison of Ganentaa, on the 1st and 8th of September, 1657; by the account of the said soldiers; by an order of the Council of the last of April, 1658, and by another order of said Council of 19th May, 1656, for the payment of the repair (*réfraction*) of the arms of said soldiers, the whole being on the same sheet, signed Penvcet.—App. E. In which country, the said sixty Frenchmen cleared, and planted lands with French grain and other legumes, built many large houses, (statement of the payments and wages made to said Sr. Dupuis and soldiers by the Commissary of stores, from the 26th Nov. 1657, also signed Penvcet.—App. F.) and lived there peaceably and without any opposition on the part of those who were then in possession of Manat and Orange, who, far from being masters of the country of the Iroquois, purchased from them some portion of their lands, when they wished for any, as they do still at present. And what is worthy of remark is, that the Iroquois themselves came in 1655, on an Embassy to Quebec, to request of said Sieur de Lauzon, those sixty soldiers aforesaid, and conducted them, the following year to the said place of Ganentaa, where they located, established, and put them in possession, (Inquest made by the Lieutenant-Governor of Quebec, the 29th and 30th October, 1688, App. G.) and where they remained until the Iroquois having committed some acts of hostility in the direction of Montreal, the commander of said Fort thought proper to retire with his garrison in order to protect the sixty men aforesaid from the wicked designs the Iroquois had concocted against them.

And in order to show that the country of the Iroquois was at the disposition of the Governor of Quebec, to make grants thereof in the same manner as of the other lands of his Government, it is worthy of remark that, at the time Sieur Dupuis was sent with his soldiers on the part of the King, to construct the aforesaid Fort of Ganentaa, and garrison it, M. de Lauzon made a grant in due form of a part of said lands to the Jesuit Missionary Fathers, who were of the sixty Frenchmen aforesaid. (The Deed is dated the 12th of April, 1656—App. H.)

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Since that time, our Frenchmen have always carried on trade with the Iroquois, M. Courcelles having gone up with a number of French to Lake Ontario, to the place named Katarakui, where the said Iroquois being, they were (he was) received by the latter as their Father; and in the year 1673, Count de Frontenac having gone to Katarakui, likewise accompanied by a number of Frenchmen, had a Royal fort to be erected there where the King has always kept a garrison and a Governor, whom Sieur de Frontenac caused to build at the said Katarakui, divers barks which have always navigated and traded with the Senecas and other Iroquois as far as Niagara, where Sieur de la Salle (as is proved by two writings drawn up by Sieur de la Salle, for the benefit of Moyse Hilser, dated at Fort Creveceur, the 1st and 2nd March, 1680, which affords evidence of said Sieur de la Salle's residence and trade at Niagara in 1676—App. N.) had built in 1676, a store, a forge, and other buildings for the greater accommodation of the trade with the said Senecas and other Iroquois, who used to come to us in the French settlements at Katarakui and Niagara (See the Procés Verbal of the new entry into possession of the said place of Niagara by the Marquis de Denonville, last July, 1687, on the return march of the army commanded by him against the Senecas, signed, by collation, Penvcet. App. O.) and this trade has continued, and our Frenchmen have always had peaceable possession of the Iroquois country, going and coming to their villages, and many residing with the Missionaries there, until the war with the Iroquois having broke out, the Frenchmen, Missionaries and others were obliged to withdraw (see also the two last depositions in said inquest heretofore lettered G., and by the Act of the New Entry into possession of the country of the Senecas, dated 19th July, 1687. App. . . . 21), whereupon Colonel Dongan, Governor of New York, took occasion, in 1684, to send to the Iroquois village to set up the arms of the King of England therein, and to take possession thereof, offering them powder and other munitions of war to induce them to admit the necessity that



existed of giving themselves to him. But this entry into possession being illegitimate and posterior, by so many years, to that of the French, cannot convey any right to the English over those lands, which already belong to the French by so many anterior titles, as has been previously remarked, and by so many lawful and incontestable rights.

The futility of *Sieur Dongan's* claim to the property of the country of the Iroquois, and that the latter are within his government (that is proved by the said pieces signed, by collation, *Penvcet*, and lettered *P.*) is manifest according to what *Sieur de Champlain* hath done, and what has been heretofore stated, and among other things, by a letter written by the Council of Quebec, the 20th of June, 1651, to the Commissioners of New England, to the effect that the Iroquois had no connection with nor dependence on the English; which is sustained by the Commission to the deputies therein named from *M. D'Aillebaut*, then Governor of New France. (This is again confirmed by the articles of Peace made with *M. de Tracy* and the Iroquois in 1665, lettered already, *L.*, and by the Act and Declaration recently made by them at Montreal, the 15th June, 1688. App. L.)

For as regards Colonel *Dongan's* assertions, that the country of the Iroquois belongs to his government, because, according to him, it is south of his jurisdiction, we answer in the first place, that it is not south, but in fact west-north-west of *Manatte*.

Secondly, though it were south, that cannot derogate from the rights of the French who had taken possession of it, even before the Dutch or the English had set foot at *Manatte*, and who, since they are there, never opposed it, until within three or four years, which cannot confer any right on them.

To come now to the possessions and establishments (these will be proved by the acts which *M. Talon* has in Paris,) which have been acquired in ascending the *St. Lawrence*, since the post of *Niagara*, *Sieur de la Salle* with thirty Frenchmen, of which number was *M. Jollier*, Priest, Superior of the Seminary of Montreal, made the tour of *Lake Erie*, and took possession of the circumjacent lands, after *Sieur Jolliet*, with *Father Marquet*, Jesuit, had long before done the same thing, in order to renew the entry into possession of *Sieur de Champlain* in 1612.

And after that, in 1676 (Proved by a writing of said *Sieur de la Salle*, for the benefit of *Moyse Hillers* in March, 1680. App. N., by the *procès verbal* of the *M. de Denonville*, of last July, 1687. App. O., and by the inquisition of the said Lieutenant-General of Quebec. Also App. supra G.) said *Sieur de la Salle* caused a ship and a large house to be built above the Falls of *Niagara*, within three or four leagues of *Lake Erie*, where are still visible the stocks whereon was built the said vessel, which having been completed in 1677, about the feast of *St. John the Baptist*, was conducted, freighted with merchandise into the said *Lake Erie*, and thence passed through the *Detroit*, where *Fort St. Joseph* or *du Luth* is built, and where *Sieur de la Durantaye* renewed the entry into possession of the neighbouring countries north and south (entry into possession. is dated 7th June, 1687. App. R.) navigated *Lake Huron* as far as *Missilimakinak*, and thence through that of the *Illinois* or *Missagans* beyond the *Huron* islands, which said bark was constructed for the greater convenience of trading with the French who inhabited the said place of *Missilimakinak* for more than forty years; some French established at the *Bay des Puans*, with those at *Fort St. Louis*, established by *Sieur de la Salle*, who had discovered the great *River Mississippi*, and descended it as far as the *South Sea*. For the continuation of which trade, he caused a fort and buildings to be erected, and a bark to be begun at a place called *Crevecoeur*, in order to proceed as far as the said *South Sea*, two-thirds of which bark only were built, the said *Sieur de la Salle* having afterwards employed canoes for his trade in said countries, as he had already done for several years in the *Rivers Oyo*, *Ouabache* and others in the surrounding neighbourhood which flow into the said *River Mississippi*, whereof possession was taken by him in the King's name as appears by the relations made thereof. The countries and rivers of *Oyo* or *Abache*, and the circumjacent territory were inhabited by our Indians, the *Chouanons*, *Miamis*, and *Illinois*.

It is to be remarked that, as early as the year 1633, a good many Frenchmen having gone up to the *Hurons* with the Jesuit Fathers and Missionaries settled there; and ten years afterwards, the King sent thirty soldiers thither, who remained there until the destruction of all the *Hurons* by the Iroquois obliged the French to retire for a time; but they returned thither shortly afterwards in a much more considerable number, and spread themselves throughout those vast countries. (It is proved by an Arrêt of the Council of State, of the 5th March, 1648, that His Majesty had authorized the sending to the *Huron* country a

company of thirty men, commanded by a Captain, for the purpose of escorting the Hurons and other Indian tribes, and to accompany the Missionaries who were no longer able to continue their Missions without aid.)

Thirdly, what is more authentic in this matter is the entry into possession of all those countries made by M. Talon, Intendant of New France, who, in 1671, sent Sieur de St. Lussou, his sub-delegate, into the country of the Outaouas, who invited the deputies of all the tribes within a circumference of more than a hundred leagues to meet at St. Mary of the Sault. On the 4th of June of the same year, fourteen tribes by their ambassadors repaired thither, and in their presence and that of a number of Frenchmen, Sieur de St. Lussou, erected there a post to which he affixed the King's arms, and declared to all those people that he had convoked them in order to receive them into the King's protection, and in his name to take possession of all their lands, so that henceforth ours and theirs should be but one; which all those tribes very readily accepted. The commission of said sub-delegate contained these very words, viz. :—That he was sent to take possession of the countries lying between the east and west, from Montreal to the South Sea, as much and as far as was in his power. This entry into possession was made with all those formalities, as is to be seen in the Relation of 1671, and more expressly in the record of the entry into possession, drawn up by the said sub-delegate. (See hereupon M. Talon, who must have the *procès verbal* of the entry into possession by said Sieur de St. Lussou.)

The next year, 1672, the River Mississippi, and at the same time, the Illinois, Chaouanons, and other tribes unknown to Europeans, were discovered by Sieur Jolliet and the Jesuit Father Marquet, who were as far as the 32nd degree, and set up the King's arms, taking possession in his name of all those recently discovered nations.

And some years after, Sieur de la Salle, extended the same discovery farther, even unto the Sea, taking everywhere possession by the King's arms, which he erected there.

All the foregoing demonstrates sufficiently the incontestable right the French have to the Iroquois lands, to those of the Outaouas, and all the other tribes inhabiting the countries aforementioned, and others whereof possession has also been taken in His Majesty's name, along the River St. Lawrence, the lakes it forms, and the rivers discharging therein, which constitute the continuation of the waters of said River St. Lawrence, (the River St. Lawrence is proved by the concession of M. de Lauzon, of the 15th May, 1656, to Sieur Dupuy, already mentioned under App. D.) from the gulf always following the same point of the compass, and extends beyond Lake Superior, proceeding from the Lake des Alépinignons, without any interruption of the navigation, our barks having always sailed from lake to lake along said river, the one making their voyage from the place called la Galette, to Niagara on Lake Ontario, or Frontenac, and the others from above the Falls of Niagara, unto the head of Lake Missigamé, or Illinois, passing through that of Erie, then following said River St. Lawrence by the Detroit and Fort St. Joseph, or du Luth, and thence into Lake Huron, or the Fresh Sea, which communicates (*repond*) with the said Lake of the Illinois, as well as the said Lakes Superior and des Alépinignons, where the French actually are trading and have divers establishments, and it demonstrates their possession of the great River Mississippi which they have discovered as far as the South Sea, on which river also they have divers establishments, as well as on that of Oyo, Ouabaché, &c., which flow into the said River Mississippi, and of the countries and lands in the vicinity of said rivers, where they actually carry on trade, which countries are easily recognised on the general map of North America.

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PROCLAMATION OF 1791, DECLARING WHEN THE ACT OF THE 31ST GEO. III., SHALL HAVE EFFECT IN THE PROVINCE OF UPPER AND LOWER CANADA.

ALURED CLARKE :

*George the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth.*

To all our loving subjects whom these presents may concern, greeting :—

Whereas we have thought fit by and with the advice of our Privy Council, by our Order in Council, dated in the month of August last, to order that our Province of Quebec should be divided into two distinct Provinces, to be called the Province of Upper Canada



and the Province of Lower Canada, by separating the said two Provinces according to the following line of division, viz.:—"To commence at a stone boundary on the north bank of the Lake St. Francis, at the Cove West of Pointe au Bodêt, in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said Seigneurie of New Longueuil; thence along the north-western boundary of the Seigneurie of Vaudreuil, running north twenty-five degrees east until it strikes the Ottawas River, to ascend the said river into the Lake Tomiscanning, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada." And whereas, by an Act passed in the last session of Parliament, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled an Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," it is provided that by reason of the distance of the said Provinces from Great Britain, and the change to be made by the said Act in the Government thereof, it may be necessary that there should be some interval of time between the notification of the said Act to the said Provinces respectively, and the day of its commencement within the said Provinces respectively; and that it should be lawful for us, with the advice of our Privy Council, to fix and declare, or to authorize the Governor or Lieutenant-Governor of our Province of Quebec, or the person administering the Government there, to fix and declare the day of the commencement of the said Act within the said Provinces respectively, provided that such day shall not be later than the thirty-first day of December, one thousand seven hundred and ninety-one. And whereas, in pursuance of the said Act, we have thought fit by another Order in Council, bearing date the twenty-fourth day of August last, to authorize our Governor, or, in his absence, our Lieutenant-Governor, or the person administering the Government of our said Province of Quebec, to fix and declare such day as he should judge most advisable for the commencement of the said Act within the Province of Upper Canada and the Province of Lower Canada respectively, and to that effect have, by our warrant to our right trusty and well-beloved Guy, Lord Dorchester, Captain-General and Governor-in-Chief in and over our said Province of Quebec, or in his absence, to our Lieutenant-Governor or Commander-in-Chief of our said Province for the time being, under our signet and Royal sign-manual, bearing date at St. James's, the twelfth day of September last, signified our will and pleasure that he take the necessary measures accordingly.

Know ye, therefore, that our trusty and well-beloved Alured Clarke, Esquire, our Lieutenant-Governor of our said Province of Quebec, in the absence of our said Governor thereof, hath judged it most advisable to fix upon Monday, the twenty-sixth day of December next, for the commencement of the said Act within the Provinces aforesaid respectively; and it is accordingly hereby declared that the said Act of Parliament, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled an Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province," shall commence within the said Provinces of Upper Canada and Lower Canada, respectively, on Monday, the said twenty-sixth day of December, in this present year one thousand seven hundred and ninety-one, of which all our loving subjects, and all others concerned, are to take notice and govern themselves accordingly.

In testimony whereof we have caused these our Letters to be made Patent, and the Great Seal of said Province of Quebec to be hereunto affixed. Witness, our trusty and well beloved Alured Clarke, Esquire, our Lieutenant-Governor and Commander-in-Chief of our said Province of Quebec, Major-General commanding our forces in North America, &c., &c., at our Castle of St. Lewis in the City of Quebec, this eighteenth day of November, in the year of our Lord one thousand seven hundred and ninety-one, and in the thirty-second year of our reign.

HUGH FINLAY,  
*Acting Secretary.*

A. C.

COPY OF A REPORT OF A COMMITTEE OF THE HONORABLE THE EXECUTIVE COUNCIL,  
APPROVED BY HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL, ON THE 11TH  
JANUARY, 1850.

The Committee of the Executive Council have had under consideration, on your Excellency's reference, a memorandum presented to the Honorable Colonel Bruce, Superintendent Indian Department, from the Hon. W. B. Robinson, on behalf of certain Indian Chiefs lately arrested at Sault Ste. Marie, on a charge of having been implicated in the attack on the property of the Quebec Mining Company, and who are represented to be now in Toronto, anxious to obtain assistance to return to their houses, as well as an assurance that the Government will speedily take measures to adjust the claims of the Indians for compensation, on their renouncing all claims to the occupation of the lands in the vicinity of Lakes Huron and Superior, and portion of which have been occupied for Mining purposes.

The Committee of Council having reference to the proceedings already taken with a view of adjusting the claims of the Indians, and also to a late report on the subject from the Commissioners of Crown Lands, which will form the subject of a separate minute, are respectfully of opinion that a sum not exceeding £100, be advanced to the Indians to enable them to return; and the Committee are further of opinion that Mr. Robinson be authorized on the part of the Government to negotiate with the several tribes for the adjustment of their claims to the lands in the vicinity of Lakes Superior and Huron, or of such portions of them as may be required for Mining purposes.

The Committee of Council are further of opinion that Mr. Robinson should be instructed to communicate to the Indians the fact of his appointment, and that it is his intention to proceed to Lake Superior at such time as may be found most convenient for meeting with the Chiefs; and that he be likewise instructed to impress on the minds of the Indians that they ought not to expect excessive remuneration for the partial occupation of the territory heretofore used as hunting grounds, by persons who have been engaged in developing sources of wealth which they had themselves entirely neglected.

The Committee of Council are further of opinion, that Mr. Robinson should warn the Indians against listening to the counsels of any one who may advise them to resort to criminal proceedings, which will not only render the parties participating in them amenable to the laws of the Province; but likewise entail expense which will necessarily diminish the fund from which alone the means of affording compensation can be obtained. The Commissioner of Crown Lands will advance to Mr. Robinson the sum required, which must form a charge against any moneys received on account of the Mining locations.

#### LAKE SUPERIOR TREATY, SEPT. 7, 1850.

This agreement, made and entered into on the seventh day of September, in the year of Our Lord 1850, at Sault Sainte Marie, in the Province of Canada, between the Honourable William Benjamin Robinson, of the one part, on behalf of Her Majesty the Queen, and Joseph Peandechat, John Inuinway, Mishimuckqua, Totomenai, Chiefs; and Jacob Wasseba, Ahmutchwagabou, Michel Shebageshick, Manitoshainse and Chigenaus, principal men of the Ogibiway Indians inhabiting the northern shore of Lake Superior, in the said Province of Canada, from Batchewanaung Bay to Pigeon River, at the western extremity of said lake, and inland throughout that extent to the height of land which separates the territory covered by the charter of the Honourable the Hudson's Bay Company from the said tract, and also the islands in the said lake within the boundaries of the British possessions therein, of the other part;

Witnesseth, that for and in consideration of the sum of £2,000 of good and lawful money of Upper Canada, to them in hand paid, and for the further perpetual annuity of £500, the same to be paid and delivered to the said Chiefs and their tribes at a convenient season of each summer, not later than the first day of August, at the Honourable the Hudson's Bay Company's posts of Michipicoton and Fort William, they, the said Chiefs and principal men, do freely, fully and voluntarily surrender, cede, grant and convey unto Her Majesty, her heirs and successors, for ever, all their right, title and interest in the whole of the territory above described, save and except the reservations set forth in the schedule hereunto annexed, which reservations shall be held and occupied by the said Chiefs and their tribes in common for the purposes of residence and cultivation. And should the said Chiefs and their respective



tribes at any time desire to dispose of any mineral or other valuable productions upon the said reservations, the same will be, at their request, sold by order of the Superintendent-General of the Indian Department for the time being, for their sole use and benefit and to the best advantage.

And the said William Benjamin Robinson, of the first part, on behalf of Her Majesty and the Government of this Province, hereby promises and agrees to make the payments as before mentioned, and further to allow the said Chiefs and their tribes the full and free privilege to hunt over the territory now ceded by them, and to fish in the waters thereof, as they have heretofore been in the habit of doing, saving and excepting only such portions of the said territory as may from time to time be sold or leased to individuals, or companies of individuals, and occupied by them with the consent of the Provincial Government.

The parties of the second part further promise and agree that they will not sell, lease, or otherwise dispose of any portion of their reservations without the consent of the Superintendent-General of Indian Affairs being first had and obtained; nor will they at any time hinder or prevent persons from exploring or searching for minerals or other valuable productions in any part of the territory hereby ceded to Her Majesty, as before mentioned. The parties of the second part also agree that in case the Government of this Province should, before the date of this agreement, have sold or bargained to sell any mining locations or other property, on the portions of the territory hereby reserved for their use and benefit, then and in that case, such sale or promise of sale shall be perfected, if the parties interested desire it, by the Government, and the amount accruing therefrom shall be paid to the tribe to whom the reservation belongs.

The said William Benjamin Robinson, on behalf of Her Majesty, who desires to deal liberally and justly with all her subjects, further promises and agrees that in case the territory hereby ceded by the parties of the second part shall at any future period produce an amount which will enable the Government of this Province, without incurring loss, to increase the annuity hereby secured to them, then and in that case the same shall be augmented from time to time; provided, that the amount paid to each individual shall not exceed the sum of one pound, Provincial currency, in any one year, or such further sum as Her Majesty may be graciously pleased to order; and provided, that the number of Indians entitled to the benefit of this Treaty, shall amount to two-thirds of their present number (which is 1,240) to entitle them to claim the full benefit thereof; and should the numbers at any future period not amount to two-thirds of 1,240, the annuity shall be diminished in proportion to their actual numbers.

*Schedule of Reservations Made by the Above-named and Subscribing Chiefs and Principal Men.*

*First.*—Joseph Peandechat and his tribe: the reserve to commence about two miles from Fort William (inland), on the right bank of the River Kimimiquia; thence westerly six miles parallel to the shores of the lake; thence northerly five miles; thence easterly to the right bank of the said river, so as not to interfere with any acquired rights of the Honorable the Hudson's Bay Company.

*Second.*—Four miles square at Gros Cap, being a valley near the Honourable the Hudson's Bay Company's Post of Michipicoton, for Totomenai and tribe.

*Third.*—Four miles square on Gull River, near Lake Nipigon, on both sides of said river, for the Chief Mishimuckqua and tribe.

Signed, sealed and delivered at Sault Sainte Marie, the day and year first above written, in presence of—

Signed, GEO. IRONSIDE, S. I. Affairs,  
 " ASTLEY P. COOPER, Cap.-Com. R. B.,  
 " A. N. BALFOUR, 2nd Lieut., R. Batt.,  
 " JNO. SWANSTON, C. F. Hon. Hud. B. C.  
 " GEO. JOHNSTON,  
 " J. M. KEATING.

Signed, W. B. ROBINSON,  
 " JOSEPH PEANDECHAT.  
 " JOHN INIWAY,  
 " MISHIMUCKQUA,  
 " TOTOMENAI,  
 " JACOB WAPABA,  
 " AH MUTCHWAGABON,  
 " MICHEL SHEBAGESHICK,  
 " MANITON SHAINSE,  
 " CHIGENAU.

## W. McD. DAWSON'S EVIDENCE AS TO HUDSON'S BAY COMPANY'S CLAIMS 1857.

[The following is the evidence of Mr. William McD. Dawson, given on the 8th June, 1857, before a Committee appointed by the Legislative Assembly of Canada, to receive and collect evidence as to the rights of the Hudson's Bay Company under their Charter, &c. :—]

MONDAY, 8th June, 1857.

Mr. WILLIAM McD. DAWSON called in and examined.

I am head of the Woods and Forests Branch of the Crown Land Department, and reside in Toronto.

Q.—Have you particularly studied the titles under which the Hudson's Bay Company claim certain rights of soil, jurisdiction, and trade on this continent?

A.—I have made this subject a particular object of study for many years, and have omitted no opportunity of acquiring information upon it, and although with more time than I could devote to it, and a more extended research, much additional information could be obtained, I believe that it would only tend to fill up details, and strengthen and confirm the results of the investigation I have already made.

Q.—Will you state to the Committee the result of your investigation?

A.—The result of my investigation has been to demonstrate that in the Red River and Saskatchewan countries, the Hudson's Bay Company have no right or title whatever, except what they have in common with other British subjects. Wherever they have any possession or occupancy there they are simply squatters, the same as they are at Fort William, La Cloche, Lake Nipissing, or any of their other posts in Canada.

The Governmental attributes they claim in that country are a fiction, and their exercise a palpable infraction of law.

I am no enemy to the Hudson's Bay Company, nor to any individual connected with it, and I think there are, at the present day, extenuating circumstances to justify a great degree of forbearance towards them, when their position comes to be dealt with either judicially or legislatively.

Illegal as it undoubtedly is, their present position is a sort of moral necessity with them. The first attempt of the Company, under Lord Selkirk's régime, to assume that position, was no doubt a monstrous usurpation, but it was defeated, though not till it had caused much bloodshed.

The Hudson's Bay Company and the Canadian traders (North-West Company) afterwards amalgamated, and then, in pursuance of a policy, most dexterously planned and executed, carried the trade away back into the interior, from the very shores of the lakes and rivers adjoining the settlements of Canada, and took it round by Hudson's Bay to keep it out of view, to lessen the chances of a new opposition springing up.

They also gave out that it was their country—a fiction which the license of exclusive trade for the Indian territories helped to maintain—and they industriously published and circulated maps of it, as such, which, being copied into other maps and geographical works, strengthened the delusion, till it became very general indeed.

When, therefore, by this means they had been left alone in these remote territories, without any intercourse with the organized tribunals or legitimate government of the country—an intercourse which their monetary interests forbade them to seek—it became a sort of necessity for them to establish a jurisdiction of their own.

It is true that they have gone to an extreme in this matter which it would be difficult to excuse; but in such a case it is hard to take the first step and be able to stop afterwards, more particularly when it consists in a total antagonism to existing law, or rather in assuming to themselves the functions of constituted authorities where they legally possess only the rights of subjects and traders, in common with the rest of the community.

But having once assumed and exercised such powers, and thereby made themselves amenable to the laws of the country, it is not to be wondered at that they have sought to justify it on the pretence that they possess those powers of Government which (doubtful at best, even in those localities where they have some show of title) are without the least foundation on the Banks of the Saskatchewan or Red Rivers.



In thus palliating the tenacity with which the Hudson's Bay Company cling to their fictitious title, I may be accused of being their apologist, but I am so only to the extent that, at the present day, their position has become a necessity ; for, in so far as they have affected the rights of others, they have rendered themselves liable to the most serious consequences, should any party aggrieved see fit to appeal to the legal tribunals of the country, and it is but natural to suppose that they will endeavour to maintain the fiction long enough to enable them to effect a compromise.

Any number of individuals might associate themselves together for mining, hunting or agriculture, say at Lake Nipissing or on Anticosti, and finding no legal tribunals there, or within their reach, they might establish a jurisdiction of their own and execute their judgments. Circumstances may be imagined in which such a course, if resulting from the necessity of their position, might be morally right though legally wrong, but nothing short of an act of indemnity could save them from the consequences if pursued at law, by those whose rights they had affected.

Such is exactly the position of the Hudson's Bay Company at the Red River, and for the judgments they have rendered there they are undoubtedly amenable to be judged by the legally constituted tribunals of this country ; and those whom they have condemned or punished, or whose rights and interest they have adjudicated upon can certainly obtain redress. And to this extent I would be their advocate, that in so far as their assumption of jurisdiction has been, in a manner, a necessity resulting from the Acts of former years, the Legislature should pass an Act of indemnity to shield them from the consequences—the circumstances to be first investigated, however, by a commission appointed by the Government for that purpose.

It may seem presumptuous in me to put the case so strongly in opposition to the general view of their territorial rights ; but it is not a matter of opinion—it is a matter of fact. I could have no hesitation to state as a fact, that the County of York and the District of Montreal are not portions of the Company's Territory ; but the fact that the Red River and Saskatchewan are not in their Territory is just as strong and absolute, and the circumstance that the one happens to be better known than the other does not alter the fact in the one case more than the other.

But the generally received view of the subject is but of recent date and simply the result of the circumstance, that no one in particular has taken any interest in denying it. It is only since the union of the Companies in 1821 that there has been no obstacle to the continuous imposition of the Company's views upon the public till they ultimately become rather unopposed than accepted ; and in denying their title now, (on the Saskatchewan and Red River,) I am simply in accord with the highest authorities whose province it has been to treat the question judicially.

It must be remembered that the Company did not attempt to even enter upon these countries until 104 years after the date of their charter, viz : in 1774, and that they then did so not as taking possession under their charter, but only to participate in a traffic then in the hands of British subjects trading from Canada in virtue of the conquest or cession of the country, through which and not in virtue of their charter, the Company also had, of course, a right to trade as British subjects.

A rivalry having been kept up for many years in the trade, and the absurd construction of the charter now contended for having been *invented*, the attempt to exercise the powers claimed was made by the Company through Lord Selkirk, first, theoretically, about the years 1811–12, and practically, about 1814, by warning off the North-West Company and obstructing the channel of their trade ; and the result was a great deal of strife and bloodshed. In the course of this strife various appeals were made to the Provincial and Imperial Governments and to the legal tribunals, and in every instance the decisions were directly or constructively adverse to the pretensions of the Hudson's Bay Company.

In a dispatch to the Governor-General from Earl Bathurst, by order of His Royal Highness the Prince Regent, under date 6th February, 1817, I find the following instructions in relation to these events :

“ You will also require under similar penalties the restitution of all forts, buildings, “or trading stations, with the property which they contain, which may have been seized “or taken possession of by either party, to the party who originally established or con-

"structed the same and who were possessed of them previous to the recent disputes between the two Companies.

*"You will also require the removal of any blockade or impediment by which any party may have attempted to prevent or interrupt the free passage of traders or others of His Majesty's subjects or the natives of the country with their merchandize, furs, provisions, and other effects, throughout the lakes, rivers, roads and every other usual route or communication heretofore used for the purposes of the fur trade in the interior of North America, and the full and free permission for all persons to pursue their usual and accustomed trade without hinderance or molestation."*

And in conclusion this object is again peremptorily insisted on, viz. : "the mutual restoration of all property captured during these disputes, and the freedom of trade and intercourse with the Indians, until the trials now pending can be brought to a judicial decision and the great question at issue with respect to the rights of the two Companies shall be definitively settled."

The trials then pending to which the above allusion has reference were those instituted by Lord Selkirk against the partners and employees of the North-West Company, who had resisted the pretensions of the Hudson's Bay, and in consequence of which a battle was fought on the Frog Plains, at the Red River, in which some 20 of the Hudson's Bay people were killed, including the "Governor," as they styled their chief officer. These trials were for murder (some of the parties as principals and some as accessories), for arson, robbery, (stealing cannon) and other high misdemeanours, and were held in this City [Toronto], then the Town of York, in October 1818, and resulted in the acquittal of all the parties on all the charges, though it was not denied that some of them had been in the battle, in which, however, they contended that they were in defence of their just rights.

These trials were held under the Canada Jurisdiction Act (43 Geo. III, cap. 138), by authority of a commission from Lower Canada; but the jurisdiction under that Act being questioned on the ground that the Frog Plains were in Upper Canada, and therefore not in the territories affected by the Act, the Court was so doubtful on the question of boundary that the charge to the jury directed that in case of finding the prisoners guilty, they should return a special verdict, setting forth that "they could not see from any evidence before them, what were the limits of Upper Canada." The Attorney-General was unable to define these limits, but appealed to the Court to decide, as they were "deducible from treaties, Acts of Parliament, and Proclamations, &c." And the judgment of the Court was as above stated; the following passage occurring in the charge of the Chief Justice:—

*"Mr. Attorney General has put in evidence the latitude and longitude of the Frog Plains, but he does not put in evidence whether this latitude and longitude be without or within the boundaries of Upper Canada, and I do not know whether from 90° to 100° or 150° form the Western limit of Upper Canada."*

In other words, the Court could not affirm that Upper Canada had any Western limit on this side of the Pacific; and the Court was right; its westerly limit never had been assigned, and absolute evidence, of the very nature which the Attorney-General (now Chief Justice, Sir J. B. Robinson) admitted would be proof upon the subject, existed, so far as to prove that the Province extended beyond the Lake of the Woods, without determining how far beyond; but it was not his duty to quote it as he was prosecuting for a conviction as directed by a special commission from Lower Canada under a particular Act. An acquittal, however, rendered any special verdict unnecessary, and the question was not therefore further tried on these cases.

I must remark, however, that the question raised, was solely whether the scene of the outrage at Red River was in Canada or the Indian Territory, not whether it was in Canada or the Hudson's Bay Company's Territory; the latter alternative was not even entertained having been almost entirely ignored on the trials as too manifestly absurd to make any legal fight upon at all. In short, the case for the defence was based on a justification of resistance to the assumed authority of the Company whose preposterous pretensions on the Red River with "Governors, Sheriffs, &c.," were treated with ridicule; without, however, detracting from the individuals, "Governor" Semple who was killed, or his predecessor, McDonell, who were worthy of the highest respect, though, like many others, imposed upon in the first instance by the specious pretences of the Company and Lord Selkirk.

Other actions and trials took place in Upper Canada, all of which, so far as I have been



able to trace them, were adverse to the Hudson's Bay Company. In February 1819, in this city, William Smith, Under Sheriff of the then Western District, obtained £500 damages against Lord Selkirk, then at the head of a large armed force, for resisting him in the execution of a writ of restitution founded upon a verdict obtained at Sandwich in 1816, and resistance also to a warrant for his Lordship's arrest.

At the same time Daniel McKenzie obtained £1,500 damages for forcible detention, &c., by Lord Selkirk.

Criminal proceedings were also instituted and a bill of indictment found against Lord Selkirk himself and the leaders of his party, for their illegal transactions in the Western Territories; but I have not yet been able to trace up the result of this case, and no doubt much valuable information could be obtained by some one having more time than I have had to hunt up the records of these proceedings.

The latter trials, I believe, were in the ordinary course of procedure of Upper Canada, and not under the Special Act for the Indian Territories, &c., and the proceedings taken extended to transactions which occurred far within the territories drained by waters discharging into Lake Winnipeg.

Having shewn the views of the judicial authorities of Upper Canada, I would advert for a moment to those of Lower Canada.

\* In May 1818, Charles De Reinhard was tried at Quebec for murder committed in 1816 on the River Winnipeg, under the Canada Jurisdiction Act. Exception was taken to the Jurisdiction of the Court, on the ground that the locality was not in the Indian Territory, but within the limits of Upper Canada. The Court overruled the objection, and decided that the westerly boundary of Upper Canada was a line on the meridian of 88° 50' west longitude from London. I hardly think that any surveyor, geographer or delineator of boundaries of any experience or scientific attainments would concur in that decision.

The question would be too long, however, to discuss now, and I shall only say that it was based on the assumption that, of the territory previously belonging to, and acquired from France, in 1763, only a part was organized as the Province of Quebec, and that the two Provinces of Canada, after the division, were confined to the same limits provided for the former by the Act of 1774. The Court, the Attorney General and the Counsel for the prisoner, alike concurred in the fact that the River Winnipeg was a part of the country previously belonging to France and ceded by the treaty of Paris in 1763, and at no stage of the proceedings was the question of its being a part of the Hudson's Bay Company's Territories for one moment entertained.

De Reinhard was found guilty and sentenced to death, but although the Court refused to re-consider its decision, yet the reasoning of Messrs. Stewart and Vallière was so clear that the Judges deemed it expedient that the execution should be delayed till the decision of the Imperial Government could be had upon the question of Jurisdiction.

The actual reasons given by the Imperial Government I have not been able to get at, but I know that when the decision was given, the prisoner was released, and that the question submitted was that of Jurisdiction, as above stated.

I must here remark, however, that notwithstanding the able and convincing arguments of Messrs. Stewart and Vallière, they omitted one point which the Court would have been obliged, by its own admissions, to have accepted as conclusive against the judgment it gave. The decision given was based upon the technical construction put by the Court upon the actual wording of an Act of Parliament, but it was admitted (by the Court) that the country to the West only "came into the possession of the British Crown at the treaty of Paris in 1763," and it was also admitted that the king could, by "*an Act of Sovereign Authority*," have placed that country under the Government of Canada. It was merely denied that he did so, not asserted that he could not. The counsel for the prisoner did not chance to come upon the Commissions of the Governors, or they would have found that there had been such an "*Act of Sovereign Authority*," distinctly describing that country to the West of the Lake of the Woods as attached to the Government of Canada, and the Court, by its own admission, must have been bound by it.

I may also remark that the decision of the Court at Quebec would have made the westerly limit of Upper Canada, a long way east of the United States boundary at Lake Superior, leaving out the shores of the Lake (where we are now selling mining lands,) and its westerly tributaries, and has therefore nothing in common with the boundary designated for

us by the Hudson's Bay Company, viz. : the water-shed of the St. Lawrence, and for which *there is no earthly authority except themselves.*

On this head I must advert to one other authority which is of the highest importance at this moment, when troops are about to be sent to the Red River, and who if they carry with them the erroneous views which, of late years, have been with some success imposed upon the public by the assiduous promulgation of the Company, may unfortunately be placed in a position of antagonism to the civil power. There were, indeed, some troops there not many years ago, and no such evils, as might be apprehended now, resulted; but the circumstances are changed; the scenes of an earlier period may come back if the attempt be made, wholly unsustained by law, to repress a legal right. If such should be the case, it would be unfortunate if Her Majesty's soldiers were found on the wrong side, acting against law, for the subject is now being so well discussed that the people will know their rights, and will appeal to the legal tribunals and the civil powers of the State to sustain them. Better that military rule prevailed entirely, for then the officers would know their duties and their responsibilities. If they go under the impression that they are to be subject to the supposed civil officers of a self-constituted Government which has no legal existence, they may find themselves called upon to enforce behests which are not law, which are infractions of law; they may be called upon to subdue resistance to illegal acts to which resistance is a duty and a right; and if, for acting on these behests, they are ultimately brought before the Courts of Justice, they will find that they have acted under those whose powers will be treated as a nullity, whose civil offices will be held a mockery. This has been so before; it may be so again, if due precaution be not observed; and I state it thus strongly now because the more it is known, the less will be the chance of its recurrence.

If proper civil officers, magistrates, &c., were appointed by His Excellency the Governor-General, for the Red River country, to whom alone the troops could look in case of emergency, as vested with authority, the difficulty and danger would be obviated; for without this there is no authority in that country, by, through, or in any person connected with the Hudson's Bay Company, as such, to which any officer or soldier in Her Majesty's service would be justified in yielding obedience.

To revert to the authority upon this subject, I was about to quote; it will be remembered that during the troubles which formerly took place, upon special representations made by Lord Selkirk that he was not safe in proceeding to the Red River settlement, some troops were sent with him, and the instructions given to them by order of His Excellency, Sir Gordon Drummond, are so clear and decisive that no one can mistake their purport. They were as follows:

ADJUTANT GENERAL'S OFFICE,  
Quebec, 17th April, 1818.

SIR:—THE EARL OF SELKIRK having represented to the ADMINISTRATOR IN CHIEF, and Commanding General of the Forces that he has reason to apprehend that attempts may be made upon his life, in the course of the journey through the Indian country which he is about to undertake, His Excellency has, in consequence, been pleased to grant his Lordship a Military Guard for his personal protection against assassination. This party, which is to consist of two serjeants and twelve Rank and File of the Regiment De Meuron, is placed under your command, and I am commanded to convey to you the positive prohibition of His Excellency the Lieutenant-General Commanding the Forces, against the employment of this force for any other purpose than the personal protection of the EARL OF SELKIRK. You are particularly ordered not to engage yourself, or the party under your command, in any disputes which may occur betwixt the EARL OF SELKIRK and his engagés and employés, and those of the NORTH-WEST COMPANY, or to take any part or share in any affray which may arise out of such disputes.

By such an interference on your part, you would not only be disobeying your instructions, but acting in *direct opposition* to the *wishes and intentions* of the Government, to the COUNTERTENANCE, SUPPORT and PROTECTION of which, EACH PARTY has an equal claim.

The EARL OF SELKIRK has engaged to furnish the party under your command with provisions during the time of your absence; you are on no occasion to separate from your party, but to return with his Lordship, and on no account to suffer yourself or any of your detachment to be left at any settlement or post in the Indian country.



These instructions are to be clearly explained to the non-commissioned officers and men in your party.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed)

J. HARVEY,

Lt.-Col. D.<sup>o</sup>A. G.

Lieutenant Graffenried, }  
De Meuron's Regiment. }

[The italics and capitals are the same as in the original.]

This is another emphatic declaration that the Government held the Hudson Bay Company and the Canadian traders as possessed of equal rights, and that His Majesty's troops at least were not to be used against the one to sustain the ridiculous pretensions of the other.

Notwithstanding the stringency of these instructions, however, Lord Selkirk having a number of the disbanded DeMeuron soldiers in his pay, it was difficult for the regulars to resist being led along with them, to enter upon the North-West Company's property, &c., and which involved them in legal difficulties, after their return, from which it was not easy to extricate them.

I have confined myself in the foregoing remarks to the Red River and Saskatchewan countries, which were the principal scenes of the disputes which have heretofore called for action, and it will be seen that the imperial authorities, the military authorities, and the courts of justice have all ignored the pretensions of the Hudson's Bay Company as regards those countries.

The great danger in renewing the Company's lease of the Indian territories, however, would be that they might drop the pretence that the Red River, &c., is covered by their charter, and claim it as part of the Indian territories, a plea which, though erroneous, might be more easily sustained by technicalities, inasmuch as some of the remote parts of Canada, perfectly understood to be such, have nevertheless sometimes been designated as the "Indian countries," in official documents.

I have not referred to the validity of the Company's Charter, either to deny or admit it; I merely deny that it has effect on the countries I have spoken of.

In support of this I have quoted more recent authorities, but for a more particular investigation of their title, its extent and origin, I beg to refer to a Report which I wrote for the Commissioner of Crown Lands, some months ago, the substance of which appears in the shape of a Memorandum in the Return to an Address of the Honourable Legislative Assembly, dated 15th March, 1857, for certain papers connected with the Hudson Bay question. It embodies the views I have entertained for many years, and is the result of much careful study.

Q.—Have you made the early and present boundaries of Canada a particular subject of study; if so, state the result?

A.—The early boundaries of Canada or New France included, I think, the whole of Hudson's Bay, for I find all that part of the country granted to a trading Company by the King of France, in a Charter somewhat similar, but forty-three years earlier than the Charter of the Hudson's Bay Company, I find the country also confirmed by Treaty to France, at St. Germain's en Lay, thirty-eight years before the last named charter; but the investigation of this part of the said subject is fully stated in the Memorandum referred to.

I find that from the Treaty of Utrecht in 1713 to the Treaty of Paris in 1763, the boundaries between the French possessions in Canada and the British possessions in Hudson's Bay were not defined. The lines claimed by both parties are distinctly laid down on the map lately prepared by Mr. Devine, in the Crown Land Department. Both, it will be seen, give the Red River and Saskatchewan to France, and the line laid down from British authorities is from those least favourable to French pretensions of that period. All the country south of that line is of course what was ceded by France, as Canada, in 1763, and was in her undisputed possession up to that time. There was never any westerly limit assigned to Canada either before or since the Treaty of Paris. The French claimed to the Pacific, though they never explored the whole way across, which, however, the Canadians (British and French) were the first to effect after the treaty.

Some British authorities of a more recent date claimed, under the Treaty of Utrecht, from Hudson's Bay to latitude 49° as having been so determined by Commissioners; but no such decision was ever given. I have searched every book I could find upon the subject, and have communicated with those who have searched the best libraries of France and England with the same object, but no authority can be found for such a boundary.

STATEMENT OF LANDS PATENTED BY THE PROVINCE OF CANADA BEFORE CONFEDERATION, ON NORTH SHORE OF LAKE SUPERIOR, WEST OF LONGITUDE 88° 50',\* AND DATES OF SAID PATENTS.

Locality.	Date of Patent.	Area. (Acres.)
British North American Co., Spar Island and Tract on Main Shore.....	6th April, 1853	6,400
Montreal Mining Co, opposite Victoria Island	8th September, 1856	6,400
Montreal Mining Co, North-east Shore, Thunder Bay. ....	10th " 1856	6,400
Montreal Mining Co., Pigeon River.....	13th " 1856	6,400
Location North of Neebing.....	4th January, 1864	400
" " " .....	26th " 1864	200
" " " .....	28th " 1864	200
Lot No. 15, on Thunder Bay. ....	3rd November, 1864	400
Lot No. 1, on Thunder Bay.....	11th " 1864	400
Block A, on Current River, Thunder Bay.....	29th March, 1865	400
Lot No. 2, North of Neebing.....	29th November, 1865	400
Location North of Neebing.....	27th February, 1866	200
Locations Nos. 1, 2, 3, 4, 5, 6, 8, Thunder Bay (Herrick's Survey).....	11th March, 1867	1,930
Location No. 7, Thunder Bay (Herrick's Survey) .....	25th April, 1867	171
Locations 1, 2, 3, 4, Thunder Bay (Savigny's Survey) .....	19th June, 1867	1,600
Locations 8, 9, 10, 11, 12, 13, Thunder Bay (Savigny's Survey).....	28th June, 1867	1,680
Lots in Township of Neebing.....	8th July, 1863	400
" " " .....	4th January, 1864	100
" " " .....	22nd June, 1866	100
" " " .....	20th August, 1866	100
" " " .....	30th August, 1866	312
" " " .....	3rd September, 1866	60
" in Township of Paipoonge.....	14th November, 1864	173
" " " .....	20th December, 1866	126
" " " .....	29th April, 1867	106
" Town Plot of Fort William.....	29th December, 1865	1 $\frac{1}{4}$
" " " .....	12th September, 1866	$\frac{1}{2}$
Total No. of Acres.....		35,059 $\frac{3}{4}$

Certified to be Correct,  
THOS. H. JOHNSON,  
*Assistant Commissioner.*

THOMAS DEVINE,  
*Deputy Surveyor-General.*

DEPARTMENT OF CROWN LANDS,  
TORONTO, November 15th, 1876.

\* This was supposed to be the longitude of the confluence of the Ohio and Mississippi Rivers, but the true longitude has since been determined as being within a fraction of 89° 10'.



## PROVISIONAL CONVENTIONAL BOUNDARIES, 1874.

[The following provisional arrangement between the Dominion of Canada and Province of Ontario was confirmed by Orders in Council of both Governments :—]

The Government of the Dominion of Canada, having by an Order in Council, dated the 3rd day of June, 1874, suggested that the Ontario Government should be moved to appoint a Commissioner to meet "the Minister of the Interior, and arrange some joint system for the "sale of lands and adjusting disputed rights in the territory claimed by both Governments, "by the adoption of a Conventional Boundary on the West and North, and that after the "final adjustment of the two Boundaries, titles to land should be confirmed by the Govern- "ment, whether of Ontario or the Dominion, whichever should be the proper party to legalize "the same."

And the Ontario Government having acted on the suggestion of the Privy Council, by appointing the Commissioner of Crown Lands of that Province, to meet the Minister of the Interior and discuss the proposed arrangements, and the said parties having met this day, have agreed to the following propositions as the basis of a memorandum to be submitted to their respective Governments :

1. That the Conventional Boundary of the Province of Ontario for the purposes set forth in the said Order in Council of the 3rd of June, instant, shall be on the west :—the meridian line passing through the most easterly point of Hunter's Island, runs south until it meets the Boundary Line between the United States and Canada, and north until it intersects the fifty-first parallel of latitude, and the said fifty-first parallel of latitude shall be the Conventional Boundary of the Province of Ontario on the north.

2. That all patents for lands in the disputed territory to the east and south of the said Conventional Boundaries, until the true Boundaries can be adjusted, shall be issued by the Government of Ontario ; and all patents for land on the west or north of these Conventional Boundaries shall be issued by the Dominion Government.

3. That when the true west and north Boundaries of Ontario have been definitely adjusted, each of the respective Governments shall confirm and ratify such patents as may have been issued by the other for lands then ascertained not to be within the territory of the Government which granted them, and each of the respective Governments shall also account for the proceeds of such lands as the true Boundaries, when determined, may show to belong of right to the other.

4. That the Government of the Dominion shall transfer to the Government of the Province of Ontario all application for lands lying to the east and south of the Conventional Boundaries, and also all deposits paid on the same ; and the Ontario Government shall transfer to the Dominion Government all applications for lands lying to the west or north of the said Boundaries, and likewise all deposits paid thereon. And such of the said applications as are *bona fide* and in proper form, shall be dealt with finally, according to the priority of the original filing, and where applications for the same lands have been filed in the Departments of both Governments, the priority shall be reckoned as if all had been filed in one and the same office.

Signed in duplicate this 26th day of June, 1874.

(Signed)

DAVID LAIRD,  
*Minister of the Interior.*

(Signed)

T. B. PARDEE,  
*Com. Crown Lands.*







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